

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON**

IN RE: ETHICON, INC., PELVIC REPAIR SYSTEM PRODUCTS LIABILITY LITIGATION	Master File No. 2:12-MD-02327 MDL 2327
THIS DOCUMENT RELATES TO:	JOSEPH R. GOODWIN U.S. DISTRICT JUDGE
ALL PLAINTIFFS LISTED IN PLAINTIFFS' NOTICE OF ADOPTION	

**MEMORANDUM IN OPPOSITION TO PLAINTIFFS' MOTION TO EXCLUDE
GENERAL OPINION TESTIMONY OF DOUGLAS GRIER, M.D.**

In Wave 3 of this litigation, Plaintiffs adopt the *Daubert* motion they filed in relation to the general-causation opinions of Douglas Grier, M.D., in Wave 1, Dkt. 2022. *See* Pls.' Notice of Adoption (Dkt. 2773). The Court has ruled on that Wave 1 motion. *See In re: Ethicon Inc. Pelvic Repair Sys. Prod. Liab. Litig.*, MDL No. 2327, 2016 WL 4547053 (S.D.W. Va. Aug. 31, 2016). Defendants Ethicon, Inc., Johnson & Johnson and, where applicable, Ethicon LLC (collectively, "Ethicon") respectfully request that this Court again deny Plaintiffs' motion for the reasons expressed below and in accordance with this Court's August 31, 2016 Memorandum Opinion and Order.

ARGUMENT AND AUTHORITIES

I. Dr. Grier's Testimony Regarding the Safety and Efficacy Rates of Mesh Products Is Reliable.

Plaintiffs assert the identical arguments and record regarding Dr. Grier's opinions on the safety and efficacy rates of mesh products. This Court has already rejected Plaintiffs' argument that Dr. Grier must support his testimony regarding the safety and efficacy rates of mesh products with details from his clinical experiences. *In re: Ethicon Inc.*, 2016 WL 4547053, at * 3

(“Here, Dr. Grier does not offer expert testimony about precise rates, so he is not necessarily required to detail his experiences.”). Ethicon respectfully requests that this Court rule in the same manner in the Wave 3 cases and again deny Plaintiffs’ motion with respect to the admissibility of Dr. Grier’s opinions regarding the safety and efficacy rates of mesh products.

II. Because Dr. Grier Does Not Offer Any Opinions Regarding the Process of Designing a Product, Plaintiffs’ Motion to Exclude His “Design Opinions” Should Be Denied as Moot.

Plaintiffs also assert the identical arguments and record regarding Dr. Grier’s “design opinions” that they asserted in Wave 1. This Court has denied Plaintiffs’ challenge to Dr. Grier’s “design opinions” because Dr. Grier “has not expressed any opinions about the process of designing a product.” *In re: Ethicon Inc.*, 2016 WL 4547053, at *3. Ethicon respectfully requests that this Court rule in the same manner in the Wave 3 cases and again deny as moot Plaintiffs’ motion with respect to Dr. Grier’s “design opinions.”¹

III. Dr. Grier Is Entitled to Testify about Risks of Implanting Mesh and Whether They Appeared in the IFU, and the Common Knowledge of Physicians Regarding Risks.

Dr. Grier’s proposed testimony is consistent with this Court’s orders. The Court has determined that Dr. Grier is qualified to testify “about the specific risks of implanting mesh and whether those risks appeared on the relevant IFU.” *In re: Ethicon Inc.*, 2016 WL 4547053, at *3. Further, the Court has expressed no opinion about expert testimony regarding “whether certain risks were common knowledge,” and therefore has not precluded this expert testimony. *See, e.g., In re: Ethicon Inc. Pelvic Repair Sys. Prod. Liab. Litig.*, MDL No. 2327, 2016 WL 4582231, at *3 n.2 (S.D.W. Va. Sept. 1, 2016) (“The plaintiffs’ Motion focuses on whether Dr. Woods is

¹ To the extent Plaintiffs challenge Dr. Grier’s qualifications and methodology regarding his testimony on the *safety and efficacy* of the TVT and Prolift designs, Ethicon incorporates and adopts its Opposition to Plaintiffs’ Wave 1 motion (Dkt. 2179) at 2-4.

qualified to offer expert testimony about what should be included in or what may be excluded from an IFU. So I offer no opinion on whether Dr. Woods may testify about whether certain risks were common knowledge.”); *In re: Ethicon Inc. Pelvic Repair Sys. Prod. Liab. Litig.*, MDL No. 2327, 2016 WL 4557036, at *3 n.2 (S.D.W. Va. Aug. 31, 2016) (same, with respect to Dr. Drolet); *In re: Ethicon, Inc. Pelvic Repair Sys. Prod. Liab. Litig.*, MDL No. 2327, 2016 WL 4536875, at *4 n.2 (S.D.W. Va. Aug. 30, 2016) (same, with respect to Dr. Serels); *In re: Ethicon, Inc. Pelvic Repair Sys. Prod. Liab. Litig.*, MDL No. 2327, 2016 WL 4542054, at *3 n.2 (S.D.W. Va. Aug. 30, 2016) (same, with respect to Dr. Elser); *In re: Ethicon, Inc. Pelvic Repair Sys. Prod. Liab. Litig.*, MDL No. 2327, 2016 WL 4536872, at *3 n.2 (S.D.W. Va. Aug. 30, 2016) (same, with respect to Dr. Sepulveda-Toro); *In re: Ethicon, Inc. Pelvic Repair Sys. Prod. Liab. Litig.*, MDL No. 2327, 2016 WL 4493666, at *4 n.2 (S.D.W. Va. Aug. 25, 2016) (same, with respect to Dr. Toglia); *In re: Ethicon, Inc. Pelvic Repair Sys. Prod. Liab. Litig.*, MDL No. 2327, 2016 WL 4493681, at *3 n.2 (S.D.W. Va. Aug. 25, 2016) (same, with respect to Dr. Pramudji).

Dr. Grier is qualified to testify regarding the risks that are within the common knowledge of surgeons who perform pelvic surgeries. As detailed in Ethicon’s Wave 1 motion, Dr. Grier has extensive clinical experience with native-tissue surgical procedures, surgical procedures involving mesh, and mesh repairs. Defs.’ Opp. (Dkt. 2179) at 3. He also has taught over 300 courses for advanced surgical training of physicians for conditions such as stress urinary incontinence and pelvic organ prolapse. Ex. D to Pls.’ Mot. (Dkt. 2022-4), Grier TVT/TVT-O Report at 2; Ex. B to Pls.’ Mot. (Dkt. 2022-2), Grier Prolift Report at 2. And he has conducted research in the field of incontinence and bladder disorders, and has contributed to studies on the use of TVT abdominal guides and the TVT world registry published in the Journal of Urology in 2011. Ex. D to Pls.’ Mot. (Dkt. 2022-4), Grier TVT/TVT-O Report at 2. In addition, Dr. Grier

relies on his review of complications reported in the medical literature, statements of leading medical societies, discussions with other surgeons, and general knowledge as a pelvic-floor surgeon in reaching his opinions. Ex. 1, Grier 3/22/16 Dep. Tr. 326:23-330:20, 332:13-333:23; Ex. B to Pls.' Mot. (Dkt. 2022-2), Grier Prolift Report at 19-22; Ex. C to Pls.' Mot. (Dkt. 2022-3), Grier Prolene Soft Report at 15-16; Ex. D to Pls.' Mot. (Dkt. 2022-4), Grier TVT/TVT-O Report at 23-25; Ex. E to Pls.' Mot. (Dkt. 2022-5), Grier TVT-Secur Report at 28-30.

As a practicing surgeon who went through years of medical training, has extensive clinical experience with pelvic floor surgeries, teaches other physicians about these surgeries, and keeps up with the medical literature, Dr. Grier is uniquely qualified to offer opinions about what is within the common knowledge of physicians who perform pelvic floor surgeries. Indeed, only a physician with such training and experience *could* testify as to common knowledge of surgeons who perform pelvic surgeries.

Because Dr. Grier has the qualifications and requisite foundation, he may offer his opinion that exposure/erosion is the only risk unique to mesh devices, and that degradation, shrinking, contraction or pore collapse, roping or curling, particle loss, cytotoxicity, excessive inflammatory response, and carcinogenicity are *not* risks associated with mesh devices. Ex. B to Pls.' Mot. (Dkt. 2022-2), Grier Prolift Report at 17, 19-22; Ex. C to Pls.' Mot. (Dkt. 2022-3), Grier Prolene Soft Report at 15-16; Ex. D to Pls.' Mot. (Dkt. 2022-4), Grier TVT/TVT-O Report at 18-21, 23-25; Ex. E to Pls.' Mot. (Dkt. 2022-5), Grier TVT-Secur Report at 19-20, 34. In addition, Dr. Grier is qualified to testify that chronic pain and dyspareunia are generalized risks of mesh surgery and such risks are within the common knowledge of surgeons who perform

pelvic surgeries, including mesh implantations. Ex. 1, Grier 3/22/16 Dep. Tr. 19:12-21; 319:8-14, 332:18-25; 337:9-12.²

Thus, Ethicon respectfully requests that this Court deny Plaintiffs' motion to the extent it seeks to exclude Dr. Grier's testimony regarding the common knowledge of physicians regarding risks associated with pelvic floor surgery, and risks of implanting mesh and whether they were included in the IFU.

CONCLUSION

For the foregoing reasons, Ethicon respectfully requests that Plaintiffs' Motion to Exclude the General Opinion Testimony of Douglas Grier, M.D. be denied.

Respectfully submitted,

ETHICON, INC., ETHICON LLC, AND
JOHNSON & JOHNSON

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² Moreover, this testimony will be helpful to juries assessing warning adequacy because a manufacturer has no duty to warn of risks commonly known to the surgeons who use the device. As stated generally in the RESTATEMENT (THIRD) OF TORTS: PRODUCTS LIABILITY §2, cmt. j, a product seller "is not subject to liability for failing to warn or instruct regarding risks and risk-avoidance measures that should be obvious to, or generally known by, foreseeable product users." *See also* RESTATEMENT (SECOND) OF THE LAW OF TORTS §§ 388(b), 402A, cmt. j. In fact, the FDA has said that information may be omitted from labeling "if, but only if, the article is a device for which directions, hazards, warnings and other information are *commonly known* to practitioners licensed by law to use the device." 21 C.F.R. § 801.109(c) (emphasis added).

/s/ David B. Thomas

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CERTIFICATE OF SERVICE

I certify that on October 11, 2016, I electronically filed this document with the clerk of the court using the CM/ECF system, which will send notification of this filing to CM/ECF participants registered to receive service in this MDL.

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EXHIBIT 1

Douglas Grier, M.D.

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IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
CHARLESTON DIVISION

IN RE: ETHICON, INC. PELVIC REPAIR)
SYSTEM PRODUCTS LIABILITY LITIGATION)
)
THIS DOCUMENT RELATES TO THE)
FOLLOWING CASES IN WAVE 1 OF 200:)
) 2:12-MD-02327
Barbara A. Hill)
Case No. 2:12-cv-00806) MDL No. 2327
)
Constance Daino)
Case No. 2:12-cv-01145)
) Joseph R. Goodwin
Monica Freitas) U.S. District Judge
Case No. 2:12-cv-01146)
)
Patricia Ruiz)
Case No. 2:12-cv-01021)
)
Pamela Gray Wheeler)
Case No. 2:12-cv-00455)
)
Rebekah Bartlett (Pratt))
Case No. 2:12-cv-01273)
)
Dawna Hankins)
Case No. 2:12-cv-00369)
)
Patricia Tyler)
Case No. 2:12-cv-00469)

DEPOSITION OF DOUGLAS GRIER, M.D.

March 22, 2016

Seattle, Washington

Douglas Grier, M.D.

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1	APPEARANCES	1	EXHIBIT INDEX (Continuing)
2	For the Plaintiffs:	2	EXHIBIT NO. DESCRIPTION PAGE NO.
3	David DeGreeff, Esquire	3	Exhibit No. 12 Curriculum Vitae of Dr. Grier 76
4	Nate Jones, Esquire	4	Exhibit No. 13 Plastic bag containing multiple 76
5	Wagstaff & Cartmell LLP	5	flash drives
6	4740 Grand Avenue	6	Exhibit No. 14 Report re TVT and TVT-O 97
7	Suite 300	7	Mid-urethral Slings by
8	Kansas City, MO 64112	8	Dr. Grier dated 2/29/16
9	816.701.1100	9	Exhibit No. 15 Report re TVT-Secur Mid-urethral 97
10	816.531.2372 Fax	10	Slings by Dr. Grier dated
11	ddgreeff@wcllp.com	11	2/29/16
12	njones@wcllp.com	12	Exhibit No. 16 Reliance list 123
13	For the Defendant:	13	Exhibit No. 17 Consulting agreement; 193
14	Barry J. Koopmann, Esquire	14	ETH.MESH.05973195-200
15	Molly Jean Given, Esquire	15	Exhibit No. 18 Consulting agreement; 205
16	Bowman and Brooke, LLP	16	ETH.MESH.16260624-629
17	150 South Fifth Street	17	Exhibit No. 19 Master consulting agreement; 207
18	Suite 3000	18	ETH.MESH.05276184-194
19	Minneapolis, MN 55402	19	Exhibit No. 20 Consulting Agreement 207
20	612.339.8682	20	Requisition Form - Part I;
21	612.672.3200 Fax	21	ETH.MESH.08007502-512
22	barry.koopmann@bowmanandbrooke.com	22	Exhibit No. 21 Consulting Agreement 220
23	molly.given@bowmanandbrooke.com	23	Requisition Form - Part I;
24		24	ETH.MESH.09155883-895
25		25	Exhibit No. 22 Clinical Study Agreement; 225
			ETH.MESH.00401213-217
			Exhibit No. 23 Clinical Study Agreement; 232
			ETH.MESH.00411707-717
			Exhibit No. 24 Clinical Study Agreement; 235
			ETH.MESH.00412260-269
			Exhibit No. 25 Preceptor Agreement; 239
			ETH.MESH.00367222-228
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1	EXAMINATION INDEX	1	EXHIBIT INDEX (Continuing)
2	EXAMINATION BY: PAGE NO.	2	EXHIBIT NO. DESCRIPTION PAGE NO.
3	Mr. DeGreeff 7	3	Exhibit No. 26 Meeting document re Management 242
4	Mr. Koopmann 326	4	of Stress Incontinence Using
5	Mr. DeGreeff 352	5	TVT (Tension-Free Vaginal
6		6	Tape); ETH.MESH.11462118
7	EXHIBIT INDEX	7	Exhibit No. 27 Email to Shelley Copeland and 244
8	EXHIBIT NO. DESCRIPTION PAGE NO.	8	Paul Murasko from Shannon
9	Exhibit No. 1 Amended Notice to Take Deposition 8	9	Campbell dated 9/16/02;
10	of Douglas Grier, M.D.	10	ETH.MESH.11773498-499
11	Exhibit No. 2 Curriculum Vitae of Dr. Grier 13	11	Exhibit No. 28 Document entitled "Arrowhead 247
12	Exhibit No. 3 Computer printout re Guidance 19	12	Campaign"; ETH.MESH.00756100102
13	Documents	13	Exhibit No. 29 Meeting document re TVT 254
14	Exhibit No. 4 Compilation of 10 articles 21	14	Advanced Training Dinner;
15	Exhibit No. 5 Printout of PowerPoint re 39	15	ETH.MESH.08107319
16	Gynecare TVT Secur System;	16	Exhibit No. 30 Meeting document re Gynecare 257
17	ETH.MESH.02340568-590	17	University Program;
18	Exhibit No. 6 Clinical Expert Report of 41	18	ETH.MESH.08107153-155
19	Dr. Weisberg; ETH.MESH.00997751- 767	19	Exhibit No. 31 Meeting document re Gynecare 259
20	Exhibit No. 7 3-ring binder: TVT Company Docs 41	20	Mega Course; ETH.MESH.05795309- 315
21	Exhibit No. 8 3-ring binder: Dr. Douglas 52	21	Exhibit No. 32 Email chain ending 11/15/04; 264
22	Grier, TVT-Secur General Report	22	ETH.MESH.11473364-368
23	Exhibit No. 9 3-ring binder: Dr. Douglas 54	23	Exhibit No. 33 Meeting document re Ethicon 274
24	Grier, TVT / TVT-O General 110	24	Women's Health & Urology,
25	Report	25	Western Regional Meeting,
	Exhibit No. 10 3-ring binder: TVT-Obturator 63		January 16-19, 2006
	Exhibit No. 11 3-ring binder: TVT and TVT-O 69		Exhibit No. 34 Meeting document re Urology 277
	Long-Term Studies for Experts		University; ETH.MESH.11920108- 110
			Exhibit No. 35 Meeting document re "World 280
			Premier" as Ethicon Women's
			Health & Urology;
			HMesh_ETH_01840151-152
			Exhibit No. 36 Email chain ending 5/11/07; 282
			ETH.MESH.00136359

2 (Pages 2 to 5)

Golkow Technologies, Inc. - 1.877.370.DEPS

Douglas Grier, M.D.

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1	EXHIBIT INDEX (Continuing)	1	Q And that was in the --
2	EXHIBIT NO. DESCRIPTION PAGE NO.	2	A A year ago. Perry trial.
3	Exhibit No. 37 Invoice; ETH.MESH.00534746 285	3	Q Okay. And you also gave testimony during that trial?
4	Exhibit No. 38 Invoice; ETH.MESH.00534748 285	4	A Yes, I did.
5	Exhibit No. 39 Meeting document re Women's Health & Urology; ETH.MESH.02309289-290 286	5	Q Okay. So is it fair for me to assume that I don't need
6		6	to go over the rules of a deposition with you; you
7	Exhibit No. 40 3-page Secrecy Agreement; ETH.MESH.08004242-244 290	7	understand them?
8		8	A Yes.
9	Exhibit No. 41 Email chain ending 11/22/11; JJM.MESH.00165159-163 292	9	(Exhibit No. 1 marked for
10	Exhibit No. 42 Email chain ending 11/19/10; ETH.MESH.00028559-560 294	10	identification.)
11		11	Q (By Mr. DeGreeff) Doctor, I'm passing what I've marked
12	Exhibit No. 43 Faculty Reimbursement Form; ETH.MESH.24099001 300	12	as Deposition Exhibit 1.
13	Exhibit No. 44 Faculty Reimbursement Form; ETH.MESH.24099002 300	13	Have you seen that document before?
14		14	A Yes.
15	Exhibit No. 45 Faculty Reimbursement Form; ETH.MESH.24099003 300	15	Q When did you see it?
16	Exhibit No. 46 Faculty Reimbursement Form; ETH.MESH.24099004 300	16	A Well, in the last couple weeks. These cases were -- not
17		17	all of them, but some of them -- most of them were
18	Exhibit No. 47 Spreadsheet of Events/Preceptorships 303	18	presented to me to review.
19		19	Q And for the record, that is the amended notice to take
20		20	your deposition; is that correct?
21		21	A Yes, it is.
22		22	Q And you said some of these cases were presented to you.
23		23	Which ones were not presented to you?
24		24	A Well, I don't remember Rebekah Bartlett Pratt. I'm -- I
25		25	haven't reviewed that one, that I'm aware of.

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1	BE IT REMEMBERED that on Tuesday,	1	Q So as you sit here, are you not giving a case-specific
2	March 22, 2016, at 1201 Third Avenue, Seattle,	2	opinion in the Bartlett Pratt matter?
3	Washington, Seattle, Washington, at 12:41 p.m., before	3	A I --
4	Cindy M. Koch, Certified Court Reporter, RPR, CRR, CLR,	4	MR. KOOPMANN: That is correct.
5	appeared DOUGLAS GRIER, M.D., the witness herein;	5	Q (By Mr. DeGreeff) Any others that are incorrectly on
6	WHEREUPON, the following proceedings	6	there?
7	were had, to wit:	7	A Well, perhaps --
8		8	MR. KOOPMANN: Well, he's -- just for
9	<<<<<< >>>>>>	9	the -- to clarify, he's been listed as a general expert
10		10	in some cases, and a case-specific expert in others. So
11	DOUGLAS GRIER, M.D., having been first duly sworn	11	some of these on this --
12	by the Certified Court Reporter,	12	MR. DEGREEFF: That may be our
13	testified as follows:	13	problem. Okay.
14		14	Q (By Mr. DeGreeff) So all of these cases that are on --
15	EXAMINATION	15	are there any cases on here that you're not giving either
16	BY MR. DEGREEFF:	16	a -- excuse me, when I say "here," I mean Exhibit 1, that
17	Q Hey, good morning, Doctor. Will you please tell us your	17	you're not giving either a general or a case-specific
18	name.	18	opinion in, in the mesh litigation?
19	A Douglas Grier.	19	A I assume, because this is the list that was given to me,
20	Q Okay, Doctor. And, Doctor, you have -- you've given	20	that I will be testifying in all of these, not
21	depositions before; correct?	21	necessarily case specific. I recognize the case-specific
22	A Yes.	22	ones that I've reviewed. There are a couple that I don't
23	Q In fact, have you given one in mesh litigation	23	recall reviewing, so that must be general.
24	previously?	24	Q Okay. And, Doctor, there is a -- if you'll go to Page 6
25	A Once before.	25	of Exhibit 1, there is a Schedule A.

3 (Pages 6 to 9)

Douglas Grier, M.D.

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<p>1 You see that?</p> <p>2 A Yes.</p> <p>3 Q Let's go -- this is a list of documents that we asked</p> <p>4 that you bring with you.</p> <p>5 You understand that?</p> <p>6 A Yes.</p> <p>7 Q Did you do your best to bring what we requested?</p> <p>8 A Yes, I did.</p> <p>9 Q Let's kind of go through them. No. 1 is a completed copy</p> <p>10 of your CV.</p> <p>11 Did you bring that with you?</p> <p>12 A Yes.</p> <p>13 Q Is it the same as what would have been served by counsel</p> <p>14 along with your expert reports?</p> <p>15 A Essentially, yes.</p> <p>16 Q Do you know when you -- last time you updated your CV</p> <p>17 was?</p> <p>18 A It's been about a year. So I didn't get a chance to</p> <p>19 update it further.</p> <p>20 Q So fair to say that what's been provided in the last</p> <p>21 month or so would be up to date as far as your CV is</p> <p>22 concerned?</p> <p>23 A Up to date up until the last two months.</p> <p>24 Q What from the last two months would need to be added?</p> <p>25 A Oh, just a research project that I started.</p>	<p>1 consulting agreement for the amount that you can be paid?</p> <p>2 A I'm not aware of one, but it's a very small trial, five</p> <p>3 patients. It won't be much.</p> <p>4 Q You've received case-specific materials on these cases</p> <p>5 within the last couple of weeks; is that correct?</p> <p>6 A Yes.</p> <p>7 Q And was that when you received the medical records for</p> <p>8 these case specifics?</p> <p>9 A Yes.</p> <p>10 Q Did you review any case-specific materials in giving your</p> <p>11 opinions prior to the last couple weeks?</p> <p>12 A Can you rephrase that? Case specific on these cases</p> <p>13 prior to --</p> <p>14 Q Yes.</p> <p>15 A Not that I'm aware of.</p> <p>16 MR. KOOPMANN: Past couple weeks</p> <p>17 meaning like --</p> <p>18 THE WITNESS: In that two months, if</p> <p>19 that?</p> <p>20 MR. KOOPMANN: I mean, his reports</p> <p>21 were served in -- March 2nd.</p> <p>22 Q (By Mr. DeGreeff) So when did you receive the</p> <p>23 case-specific materials that you reviewed for rendering</p> <p>24 your opinions?</p> <p>25 A I couldn't give you the day, but certainly on those flash</p>
Page 11	Page 13
<p>1 Q And what research project is that?</p> <p>2 A It's on a medical device, but it is in the realm of</p> <p>3 prostate.</p> <p>4 Q And who is the manufacturer of that medical device?</p> <p>5 A NeoTract.</p> <p>6 Q Is NeoTract in any way related to Ethicon or Johnson &</p> <p>7 Johnson?</p> <p>8 A No.</p> <p>9 Q Have you worked for NeoTract in the past?</p> <p>10 A I've been consulting with them for about a year.</p> <p>11 Q And are you doing that under a consulting -- a written</p> <p>12 consulting agreement?</p> <p>13 A Yes.</p> <p>14 Q And what is NeoTract paying you to do this consulting on</p> <p>15 their behalf?</p> <p>16 A They have a schedule. I couldn't tell you. I couldn't</p> <p>17 tell you the amount. It's -- I'm doing an FDA trial for</p> <p>18 them, and so it's a whole schedule based on what</p> <p>19 procedures -- the way -- the way a research protocol is</p> <p>20 done, you have different procedures that you do, and so</p> <p>21 there's payments based on the milestones of those</p> <p>22 procedures.</p> <p>23 Q Okay.</p> <p>24 A Workups, ultrasounds, cystoscopy.</p> <p>25 Q And what is the -- is there a cap on the -- on that</p>	<p>1 drives, you'll have the exact days.</p> <p>2 Q Did you receive any case-specific materials prior to</p> <p>3 whatever date is reflected on these flash drives?</p> <p>4 A No.</p> <p>5 Q Why don't you tell us, Doctor, what else did you bring</p> <p>6 with you here today? It looks like you've got a number</p> <p>7 of things in a box -- Bankers Box, so why don't you tell</p> <p>8 us what you brought with you, and we'll kind of mark them</p> <p>9 as exhibits.</p> <p>10 A Well, this is my CV.</p> <p>11 MR. DEGREEFF: Okay. And, Doctor, I'm</p> <p>12 going to mark a copy of your current CV as Exhibit 2.</p> <p>13 (Exhibit No. 2 marked for</p> <p>14 identification.)</p> <p>15 Q (By Mr. DeGreeff) Have I so marked that?</p> <p>16 A Yes, you did. But there's more in here.</p> <p>17 Q Okay.</p> <p>18 A This is just a device labeling guidance produced by the</p> <p>19 FDA, if I'm not mistaken.</p> <p>20 Q Okay. And this document states, Device Labeling Guidance</p> <p>21 No. G91-1, and it's from March 8th of 1991; is that</p> <p>22 correct?</p> <p>23 A Yes.</p> <p>24 Q What was the purpose of bringing this with you?</p> <p>25 A Well, it's something that I reviewed.</p>

4 (Pages 10 to 13)

Douglas Grier, M.D.

<p style="text-align: right;">Page 14</p> <p>1 Q Okay. Did you review this 11-page document in full in</p> <p>2 preparing your opinions in this case?</p> <p>3 A I wouldn't say in full. I scanned it to look for</p> <p>4 anything that was -- gives guidance in terms of how the</p> <p>5 FDA approves new devices.</p> <p>6 Q And you relied on the memorandum from 1991 for doing</p> <p>7 that?</p> <p>8 A Yes.</p> <p>9 Q Did you rely on this document in rendering your opinions</p> <p>10 in this case, or in these cases?</p> <p>11 A Well, I can't say I relied on it specifically. It's just</p> <p>12 a generalized document that kind of reviews the process</p> <p>13 of an FDA approval. So it's just a small bit of</p> <p>14 information.</p> <p>15 Q Did you include this in your reliance list?</p> <p>16 A I think so.</p> <p>17 Q Do you know whether it's on your reliance list?</p> <p>18 A It would be probably in one of these flash drives. But</p> <p>19 aren't we producing that right now? The reliance list?</p> <p>20 Q No. We've already been provided your reliance list,</p> <p>21 Doctor.</p> <p>22 And is -- so I mean, I guess my question is pretty</p> <p>23 simple. Yes or no, is this a document you relied on in</p> <p>24 formulating your opinions in these -- in this litigation?</p> <p>25 MR. KOOPMANN: Object to form.</p>	<p style="text-align: right;">Page 16</p> <p>1 off for this one. We'll see if this becomes a recurring</p> <p>2 thing.</p> <p>3 MR. DEGREEFF: It's not going to as</p> <p>4 long as he's not having to review all of this.</p> <p>5 MR. KOOPMANN: Okay.</p> <p>6 (Pause in proceedings.)</p> <p>7 THE WITNESS: Okay. I've reviewed it.</p> <p>8 Q (By Mr. DeGreeff) Doctor, you've now had a chance to</p> <p>9 review that document?</p> <p>10 A Yes.</p> <p>11 Q And my question, I think, was fairly simple. Does that</p> <p>12 document discuss what warnings must be in IFUs?</p> <p>13 A In a generalized sense, yes.</p> <p>14 Q And what does it say about that?</p> <p>15 A It says that one should put in the warnings what's</p> <p>16 reasonably noted to be a possible adverse event or a</p> <p>17 contraindication, and what precautions need to be taken</p> <p>18 if there are any specific warnings in terms of safety</p> <p>19 hazards.</p> <p>20 Q And is that something you agree with?</p> <p>21 A Oh, I do.</p> <p>22 Q And is this a document that you considered in giving your</p> <p>23 reports -- your --</p> <p>24 A Yes.</p> <p>25 Q -- your opinions in this matter? I'm sorry.</p>
<p style="text-align: right;">Page 15</p> <p>1 THE WITNESS: There is not much in</p> <p>2 there to rely on.</p> <p>3 Q (By Mr. DeGreeff) Does this document discuss what</p> <p>4 warnings need to be in an IFU?</p> <p>5 A Would you mind if I review it?</p> <p>6 Q Not at all.</p> <p>7 MR. DEGREEFF: Let's go off the record</p> <p>8 while you review the document.</p> <p>9 MR. KOOPMANN: Well, I think we should</p> <p>10 stay on the record while he's reading documents that you</p> <p>11 want to ask him about.</p> <p>12 MR. DEGREEFF: I don't think so. If</p> <p>13 he's reviewing documents that he's claiming he's already</p> <p>14 reviewed, I think we should go off the record so he has</p> <p>15 time to take a look at it.</p> <p>16 THE COURT REPORTER: So I can't go off</p> <p>17 the record unless all parties agree to go off the record,</p> <p>18 so what would you like to do?</p> <p>19 MR. DEGREEFF: I think we should go</p> <p>20 off.</p> <p>21 MR. KOOPMANN: I think we should stay</p> <p>22 on.</p> <p>23 MR. DEGREEFF: Okay. Well, everything</p> <p>24 is reciprocal, so that will happen in return.</p> <p>25 MR. KOOPMANN: Well, why don't we go</p>	<p style="text-align: right;">Page 17</p> <p>1 A When I'm reviewing the IFU, this is basically the FDA</p> <p>2 guidelines for how to -- what to include in an IFU.</p> <p>3 Q Okay. So did you rely on this in kind of reviewing the</p> <p>4 IFU and what should be concluded in an IFU?</p> <p>5 MR. KOOPMANN: Object to the form.</p> <p>6 THE WITNESS: Well, I have my opinion</p> <p>7 what should be in an IFU, and this is what the federal</p> <p>8 guidelines are that was last updated in 2009, that</p> <p>9 their -- what their recommendations are for what should</p> <p>10 be included in an IFU.</p> <p>11 Q (By Mr. DeGreeff) Okay. And is that a document that you</p> <p>12 agree with?</p> <p>13 MR. KOOPMANN: Objection. Form.</p> <p>14 THE WITNESS: I don't -- I can't say I</p> <p>15 agree with it in its entirety because there's a lot left</p> <p>16 to interpretation.</p> <p>17 Q (By Mr. DeGreeff) Well, what parts of it do you not</p> <p>18 agree with?</p> <p>19 A Well, it's not a matter of agreeing, but it's almost</p> <p>20 philosophical when it says, you know, what adverse events</p> <p>21 could happen with a procedure in terms of what should be</p> <p>22 included versus not included, in terms of the -- the</p> <p>23 number of events that are possible.</p> <p>24 If it's very, very small amounts, I don't know if</p> <p>25 that should be included in an IFU; in other words, an</p>

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<p>1 allergic reaction that's never been seen before, if it's</p> <p>2 already labeled that it happens, then it's a question of</p> <p>3 whether or not the FDA wants to include that in a future</p> <p>4 IFU. So it's -- it's somewhat philosophical.</p> <p>5 Q Okay. So this document as written, Doctor, are you</p> <p>6 saying that you -- that you are not able to tell me</p> <p>7 whether you agree with what's written in this document?</p> <p>8 A I agree with the majority of what's written in this</p> <p>9 document.</p> <p>10 Q Okay. And my question is a simple one. Which portions</p> <p>11 do you not agree with?</p> <p>12 A Do you want me to read paragraphs to you?</p> <p>13 Q Sure. If there's portions you don't agree with, read it</p> <p>14 to me.</p> <p>15 A Well, one statement, "Patient information labeling, if</p> <p>16 possible, should not exceed the seventh grade reading</p> <p>17 comprehension level."</p> <p>18 Q Okay.</p> <p>19 A That poses a challenge when the IFUs are intended for</p> <p>20 medical professionals who have comprehension greater than</p> <p>21 a seventh grade level.</p> <p>22 Q Okay. Anything else that you do not agree with?</p> <p>23 A Well, I agree to the purpose of this -- of this guidance</p> <p>24 document. There's nothing in here specifically, other</p> <p>25 than what I just said, that I don't agree with.</p>	<p>1 with a specific device must be in the device IFU?</p> <p>2 MR. KOOPMANN: Object to form.</p> <p>3 THE WITNESS: The specific risks of</p> <p>4 the device as it's used that are unique should be</p> <p>5 included in it.</p> <p>6 Q (By Mr. DeGreeff) Okay. Doctor, you mentioned milestone</p> <p>7 payments earlier that you were receiving from a clinical</p> <p>8 study you're currently performing for another device</p> <p>9 manufacturer?</p> <p>10 A Yes.</p> <p>11 Q What is a milestone payment? What does that mean?</p> <p>12 A Well, whenever you do a research project, typically there</p> <p>13 are certain milestones that are met that are determined</p> <p>14 by the company. Once you have accomplished -- say you've</p> <p>15 enrolled patients, then you've done surgery on patients,</p> <p>16 and then there's follow-up dates that their payments are</p> <p>17 made, say at 30 days, six months, one year, two years.</p> <p>18 Q And are those milestones set up by the pharmaceutical</p> <p>19 company?</p> <p>20 A Medical device company.</p> <p>21 Q Okay. And are those -- strike that.</p> <p>22 Doctor, what else have you got in here? This -- I'm</p> <p>23 holding a binder that says --</p> <p>24 A Well, we didn't finish these.</p> <p>25 Q Oh, sorry. Okay. You're right, Doctor.</p>
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<p>1 MR. DEGREEFF: Okay. And, Doctor, I'm</p> <p>2 going to mark this document that we've just been</p> <p>3 discussing as Deposition Exhibit 3.</p> <p>4 (Exhibit No. 3 marked for</p> <p>5 identification.)</p> <p>6 Q (By Mr. DeGreeff) Have I done so?</p> <p>7 A Yes.</p> <p>8 Q All right. Thank you, Doctor.</p> <p>9 Doctor, do you believe that all risks associated</p> <p>10 with a device must be in the IFU for that device?</p> <p>11 A No.</p> <p>12 Q Which risks associated with a device don't need to be in</p> <p>13 the IFU?</p> <p>14 A One -- risks that are commonly understood to be inherent</p> <p>15 in the particular surgery that you're doing.</p> <p>16 Q Okay.</p> <p>17 A And there are generalized risks with all surgery, so they</p> <p>18 do not need to be in an IFU because surgeons are already</p> <p>19 aware of those risks. What should be in there are the</p> <p>20 specific individual risks of the device that's being</p> <p>21 used.</p> <p>22 Q Okay. So --</p> <p>23 A And --</p> <p>24 Q So I guess I'll rephrase and see if we can agree.</p> <p>25 Do you believe that all risks reasonably associated</p>	<p>1 A You've got exhibit on that.</p> <p>2 Q What else do you have over here?</p> <p>3 A These are papers on slings. It's randomized control</p> <p>4 trials, and also this looks like the IFU for TVT-Secur</p> <p>5 and a clinical expert report on TVT-Secur.</p> <p>6 Q Okay. So let's break those out. So you've got nine</p> <p>7 articles; is that correct?</p> <p>8 A If you say so.</p> <p>9 Q Including -- I'll let you count them.</p> <p>10 A I count ten.</p> <p>11 Q Okay. I believe you.</p> <p>12 MR. DEGREEFF: And, Doctor, I'm</p> <p>13 marking this stack as Deposition Exhibit 4; correct?</p> <p>14 THE WITNESS: Yes.</p> <p>15 (Exhibit No. 4 marked for</p> <p>16 identification.)</p> <p>17 Q (By Mr. DeGreeff) So what is the significance of this</p> <p>18 group of articles?</p> <p>19 A Well, it's a group of articles that are certain</p> <p>20 intermediate long-term results of midurethral slings,</p> <p>21 their success, efficacy, complication rates.</p> <p>22 Q Doctor, what do you consider to be a long-term clinical</p> <p>23 study?</p> <p>24 A Well, that's a very good question. Most of us who are</p> <p>25 involved in this field, if you're talking about</p>

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<p>1 midurethral slings, would be five years, ten years.</p> <p>2 Anything past five years is a good landmark for</p> <p>3 considered long-term.</p> <p>4 Q And, Doctor, did any of these studies continue follow-up</p> <p>5 for five years or more?</p> <p>6 A There's a couple of them in here. You want me to go</p> <p>7 through each of these and tell you how many of them</p> <p>8 accomplished that?</p> <p>9 Q Actually, if you'll just tell me which ones.</p> <p>10 A Okay. This one looks like follow-up one year. This one</p> <p>11 has, it looks like, 13-year data.</p> <p>12 Q Okay. Can I see that?</p> <p>13 A Uh-huh. This one has three-year data. This one is two</p> <p>14 years. This one on TVT-Secur is five years. This is</p> <p>15 three years. This is an RCT, it looks like up to 36</p> <p>16 months, three years. This one looks like one year. And</p> <p>17 this is an RCT that goes out, it looks like, one year.</p> <p>18 And this one I know is one year.</p> <p>19 Q So of the ten studies included in Exhibit 4, only two of</p> <p>20 them reached the five-year follow-up mark; is that</p> <p>21 correct?</p> <p>22 A Yes.</p> <p>23 Q So can we agree only two of them constitute long-term</p> <p>24 studies?</p> <p>25 A Well, if you define long-term as greater than five years,</p>	<p>1 Q And do you know how much Mr. Nilsson was paid for his</p> <p>2 work on behalf of Ethicon?</p> <p>3 MR. KOOPMANN: Object to form.</p> <p>4 THE WITNESS: No, I don't.</p> <p>5 Q (By Mr. DeGreeff) Is that something that would be</p> <p>6 important to you to know?</p> <p>7 A Minimally. And the reason being is, most -- most</p> <p>8 published studies cost money to produce. There's a lot</p> <p>9 that goes into them. And so there's support from</p> <p>10 industry. There's support from universities. That's the</p> <p>11 way science is conducted in the medical literature.</p> <p>12 So everyone has to be supported on a study. The</p> <p>13 study I'm doing, that -- I'm paid very little for it. I</p> <p>14 don't even know what I'm paid because I'm not interested</p> <p>15 in the payment. I'm interested in finding out the</p> <p>16 results of the study. So it's an opportunity, but</p> <p>17 it's -- I don't consider it a relevant income because</p> <p>18 it's very small.</p> <p>19 Q I guess my question, I think, was -- and I appreciate</p> <p>20 that. My question was a little easier, though. My</p> <p>21 question was just, yes or no --</p> <p>22 A No.</p> <p>23 Q -- is that something you would want to know?</p> <p>24 A No.</p> <p>25 Q It doesn't matter to you how much he was paid?</p>
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<p>1 yes.</p> <p>2 Q Isn't that how you define it, Doctor?</p> <p>3 A Well, most studies, when it comes to slings, because</p> <p>4 they're relatively recent, we consider two-year to be</p> <p>5 really the -- kind of the minimal accepted for looking at</p> <p>6 outcomes.</p> <p>7 Although there are a lot of studies -- and if you</p> <p>8 look at every study that's less than two years, they'll</p> <p>9 always say ongoing observation will be useful in</p> <p>10 following these further.</p> <p>11 Three years is a good amount because, in the past,</p> <p>12 back in the '90s, studies weren't carried out more than</p> <p>13 one or two years. Very few people followed their</p> <p>14 patients beyond that.</p> <p>15 Q Doctor, slings have been on the market -- well, the TVT</p> <p>16 came on the market in 1998; correct?</p> <p>17 A Correct.</p> <p>18 Q That's almost 18 years ago now?</p> <p>19 A Right. And there are -- there's one paper that's 17</p> <p>20 years outcome, and that is the longest for any of the</p> <p>21 synthetic midurethral slings that are available, by far,</p> <p>22 by over ten years.</p> <p>23 Q And which paper is that?</p> <p>24 A That's -- that's the Carl Nilsson paper out of the</p> <p>25 Scandinavian group.</p>	<p>1 A No.</p> <p>2 Q Do you believe that being paid can have any effect on</p> <p>3 bias?</p> <p>4 A Theoretically, it can. But I trust my colleagues enough</p> <p>5 that that's not their motivation.</p> <p>6 Q Do you know Dr. Nilsson?</p> <p>7 A I have met him.</p> <p>8 Q Someone you know well?</p> <p>9 A Not well at all.</p> <p>10 Q Okay. So these two studies that we're looking at that</p> <p>11 met the five-year threshold, one of them is entitled</p> <p>12 "Tension-free vaginal tape-obturator and tension-free</p> <p>13 vaginal tape-Secur for the treatment of stress urinary</p> <p>14 incontinence: a 5-year follow-up randomized study"; is</p> <p>15 that correct?</p> <p>16 A Yes.</p> <p>17 Q And what year is that from?</p> <p>18 A 2014.</p> <p>19 Q Is TVS still on the market?</p> <p>20 A No.</p> <p>21 Q TVT-S. Sorry. When did TVT-S go off the market?</p> <p>22 A I think around 2011.</p> <p>23 Q Why was TVS taken off the market?</p> <p>24 A Because the FDA wanted more -- more data on mini-slings,</p> <p>25 and there was a substantive amount of research that was</p>

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<p>1 already done on this particular sling prior to that</p> <p>2 point.</p> <p>3 And my understanding is, the company withdrew the</p> <p>4 product because it would be to the scale of 10 or 15</p> <p>5 million dollars to invest in doing further studies on the</p> <p>6 TVT-Secur. So they didn't want to -- they didn't want to</p> <p>7 spend the money to do that investigation.</p> <p>8 Q Doctor, have you ever implant- -- excuse me -- placed the</p> <p>9 TVT-Secur?</p> <p>10 A Yes.</p> <p>11 Q How many of those would you say you've placed?</p> <p>12 A Probably more than 50, less than 75.</p> <p>13 Q And when did you stop placing those?</p> <p>14 A When it was withdrawn from the market.</p> <p>15 Q And if it was still available today, would you continue</p> <p>16 to use it?</p> <p>17 A Yes. In selected patients, yes.</p> <p>18 Q Which patients?</p> <p>19 A Females, females with stress incontinence, females with</p> <p>20 stress incontinence who want early return to normal</p> <p>21 activity, who are active.</p> <p>22 Q Do you agree that greater tension is a bad thing?</p> <p>23 MR. KOOPMANN: Object to form.</p> <p>24 THE WITNESS: That's a wonderful</p> <p>25 question, and that's a question that when I would teach</p>	<p>1 the sling and the posterior urethra. So everyone gets a</p> <p>2 degree of tension.</p> <p>3 Q (By Mr. DeGreeff) And you want the tension to be minimal</p> <p>4 because greater pressure can be a bad thing; right?</p> <p>5 A Yes. If you apply too much pressure, you have the risk</p> <p>6 of producing urinary retention/bladder outlet</p> <p>7 obstruction.</p> <p>8 Q What other risks are there associated with too much</p> <p>9 tension?</p> <p>10 A Well, the primary risk is urinary retention. Secondary</p> <p>11 would be de novo bladder dysfunction in the form of</p> <p>12 urinary urgency and frequency. The -- I don't know what</p> <p>13 the word would be. Significant over-tension can actually</p> <p>14 cause urethral erosion.</p> <p>15 Q So significant tension is -- significant over-tension can</p> <p>16 lead to erosion. Can we agree with that?</p> <p>17 A Potentially, yes. If I can add, that would be considered</p> <p>18 a medical/surgical misadventure. That's a misapplication</p> <p>19 of the device. That's not inherent in the device itself.</p> <p>20 MR. DEGREEFF: I'm going to move to</p> <p>21 strike that as nonresponsive, and ask my question again.</p> <p>22 Q (By Mr. DeGreeff) My question is just, too much tension</p> <p>23 can result in erosion; correct?</p> <p>24 MR. KOOPMANN: Object to form. Asked</p> <p>25 and answered.</p>
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<p>1 these techniques, that we would spend a lot of time on,</p> <p>2 what's the appropriate amount of tension. And depending</p> <p>3 on who you talk to, you get different answers. There's</p> <p>4 an appropriate amount of tension, if you're talking about</p> <p>5 how much support you're giving the midurethra, and that</p> <p>6 is the philosophical part, the art of this surgery, and</p> <p>7 has the most to do with positive outcomes.</p> <p>8 Q (By Mr. DeGreeff) Do you know in that study whether they</p> <p>9 were using mechanically cut or laser cut mesh?</p> <p>10 A If my memory serves me right, TVT-Secur is laser cut, and</p> <p>11 TVT-O is either laser or mechanical. And I'm sure they</p> <p>12 did not mention that in the study because it's really not</p> <p>13 relevant.</p> <p>14 Q It's not relevant to you whether mesh is laser cut or</p> <p>15 mechanical cut?</p> <p>16 A Correct.</p> <p>17 Q You don't care one way or the other?</p> <p>18 A No. I find them equivalent clinically.</p> <p>19 Q So do you place tension on mesh during your TVT</p> <p>20 procedures?</p> <p>21 MR. KOOPMANN: Object to form.</p> <p>22 THE WITNESS: Every sling that's</p> <p>23 placed has a certain amount of tension to it. I place</p> <p>24 minimum tension on my slings, and I do it in a very</p> <p>25 methodical way, using dilators for proper spacing between</p>	<p>1 THE WITNESS: Inappropriate, excessive</p> <p>2 tension can cause urethral erosion, but that's a surgical</p> <p>3 misadventure.</p> <p>4 Q (By Mr. DeGreeff) I'm going to ask my question again</p> <p>5 because I'm not asking you, Doctor, if it's a -- what you</p> <p>6 think the reason for the increased tension is. My</p> <p>7 question is, too much tension can result in vaginal</p> <p>8 erosion; correct?</p> <p>9 MR. KOOPMANN: Objection. Form.</p> <p>10 THE WITNESS: Yes.</p> <p>11 Q (By Mr. DeGreeff) Can I see that again, Doctor? Thank</p> <p>12 you.</p> <p>13 Doctor, the TVT and TVT-O were the only slings that</p> <p>14 used mechanically cut mesh; correct?</p> <p>15 A I think the TVT Abbrevio also uses -- oh, no. I'm sorry.</p> <p>16 That's laser cut. Yes, I think that's correct, as far as</p> <p>17 Ethicon.</p> <p>18 Q The new version of the TVT-R is the TVT Abbrevio; fair?</p> <p>19 A No.</p> <p>20 MR. KOOPMANN: Objection. Form.</p> <p>21 THE WITNESS: No. That's the TVT</p> <p>22 Exact.</p> <p>23 Q (By Mr. DeGreeff) Okay. Yeah, you're correct. My</p> <p>24 fault.</p> <p>25 The TVT Exact is the new version of the TVT-R; fair?</p>

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<p>1 A Yes.</p> <p>2 Q And the TVT Exact uses only laser cut mesh; is that</p> <p>3 correct?</p> <p>4 A I don't know that to be true. I don't know whether or</p> <p>5 not they offer both mechanical or laser.</p> <p>6 Q Okay. You just don't know, as you sit here?</p> <p>7 A I don't know.</p> <p>8 Q And the TVT Abbrevio is the new version of TVT-O; is that</p> <p>9 fair?</p> <p>10 A Yes.</p> <p>11 MR. KOOPMANN: I object just to this</p> <p>12 line of questioning as it relates to other products, for</p> <p>13 the record. This is supposed to be the TVT, TVT-O, and</p> <p>14 TVT-Secur, so --</p> <p>15 Q (By Mr. DeGreeff) Okay. TVT Abbrevio uses only laser cut</p> <p>16 mesh; correct?</p> <p>17 A I think that's correct.</p> <p>18 Q Doctor, do you have an understanding of why mechanically</p> <p>19 cut mesh isn't used in those products?</p> <p>20 A Well, I think the reason that there was a change in the</p> <p>21 product to laser from mechanical was to smooth out the</p> <p>22 edges so that it may be a little less irritating and</p> <p>23 perhaps have less of an inflammatory response of the</p> <p>24 tissues.</p> <p>25 But clinically there's no difference between the</p>	<p>1 and answered.</p> <p>2 THE WITNESS: I don't track it.</p> <p>3 Q (By Mr. DeGreeff) And I think you mentioned that the</p> <p>4 reason for the switch from laser cut to mechanical was</p> <p>5 because the mechanical cut mesh can cause more</p> <p>6 irritation, given it's not as smooth on the edges?</p> <p>7 A That's the theoretical consideration, yes.</p> <p>8 Q And, Doctor, given that you don't track whether you're</p> <p>9 putting in laser or mechanical cut mesh, as you sit here,</p> <p>10 you can't say whether there's -- whether you're having an</p> <p>11 equivalent number of complications with one versus the</p> <p>12 other; correct?</p> <p>13 A I know of no literature that shows any comparative</p> <p>14 difference between the two cuts, so I'm not aware that</p> <p>15 there is a problem for me to track. And in all my</p> <p>16 colleagues around the country, I know of no one who's</p> <p>17 tracking the results between mechanical and laser cut</p> <p>18 because there's no clinical significance because no one</p> <p>19 has identified there to be a problem.</p> <p>20 MR. DEGREEFF: Can you read back my</p> <p>21 question?</p> <p>22 (Question on Page 32, Line 8</p> <p>23 read by the reporter.)</p> <p>24 THE WITNESS: Yes.</p> <p>25 Q (By Mr. DeGreeff) Is there -- is laser cut stiffer than</p>
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<p>1 two. I've never noticed any difference in the placement</p> <p>2 or in the results of whether the sling was mechanical or</p> <p>3 laser cut. And --</p> <p>4 Q And, Doctor, do you -- is that something you track within</p> <p>5 your office?</p> <p>6 A I track all my patients in the office.</p> <p>7 Q Do you track whether you're putting in laser cut or</p> <p>8 mechanical cut mesh?</p> <p>9 A Well, if I'm putting in a TVT Abbrevio, then I assume that</p> <p>10 it's laser cut.</p> <p>11 Q Okay. What if you're putting in one of the other</p> <p>12 products?</p> <p>13 A I don't track it because I don't find it clinically</p> <p>14 relevant.</p> <p>15 Q Okay. So it's not something you track within your office</p> <p>16 whether you're putting in mechanically or laser cut mesh?</p> <p>17 A I don't actively track it because it's not -- it's -- I</p> <p>18 have no concern of one mesh cut or the other because I</p> <p>19 consider them equivalent. My experience with them is</p> <p>20 equivalent. But I do know that if I'm putting in a TVT</p> <p>21 Exact or an Abbrevio, that it's laser cut.</p> <p>22 Q Okay. I guess my question's pretty simple. Do you or do</p> <p>23 you not track whether you're putting in a laser cut or</p> <p>24 mechanical cut mesh?</p> <p>25 MR. KOOPMANN: Object to form. Asked</p>	<p>1 the mechanically cut mesh?</p> <p>2 A Not in the realm of being placed in -- in a patient and</p> <p>3 the amount of forces that come to bear on the sling in</p> <p>4 vivo. I think there's a 3 percent variance between the</p> <p>5 two in terms of elasticity in the first 3 pounds of load</p> <p>6 that's put on it.</p> <p>7 Q So laser cut mesh is 3 percent less -- more stiff?</p> <p>8 A I -- frankly, I can't remember which is more stiff than</p> <p>9 the other because they're so close, it's not meaningful.</p> <p>10 Q Have you seen the studies performed by Ethicon that show</p> <p>11 that mechanical -- I mean laser cut mesh is three times</p> <p>12 as stiff as mechanically cut mesh?</p> <p>13 A No. I don't -- that's not how I interpret that study,</p> <p>14 if -- were you relating to a bench study where they did</p> <p>15 pull forces on it, and then elongation?</p> <p>16 Q That's the one I'm talking about.</p> <p>17 A In the physiologic range, they're equivalent. If you're</p> <p>18 getting out into loads where you're degrading and tearing</p> <p>19 the mesh, then there is a variance, but that's not</p> <p>20 clinically significant.</p> <p>21 Q So do you or do you not agree with that bench study by</p> <p>22 Ethicon?</p> <p>23 MR. KOOPMANN: Object to form.</p> <p>24 THE WITNESS: I don't agree with your</p> <p>25 interpretation of it.</p>

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<p>1 Q (By Mr. DeGreeff) Do you agree with the study as 2 written? 3 A It's a factual study. Your interpretation is what is 4 erroneous. 5 Q I understand that you disagree with my interpretation. 6 I'm asking you if you agree with the study as written. 7 A I do. 8 Q And, Doctor, the other study you gave me that's a greater 9 than five-year follow-up -- well, no, Doctor, I want to 10 ask you about this one. It's called "Sling surgery for 11 stress urinary incontinence in women: a systematic review 12 and metaanalysis." 13 Is that -- did I read that correctly? 14 A Yes, you did. 15 Q And it appears it's -- the study design references a 16 12-month study to follow up. Can you explain to me how 17 that fits into the context? 18 A It's a minimum of 12 months' follow-up comparing the 19 sling procedure for stress incontinence to another sling 20 or to the Burch urethropepy. 21 Q So that's a 12-month follow-up study. That's not a 22 13-year follow-up study; right? 23 A Well, I'll have to read a little further because they 24 collected the data from 1990 to 2013, and that was the 25 minimum was 12 months. And I think, if I'm not mistaken,</p>	<p>1 greater follow-up? 2 A It looks like two. 3 Q And out of how many? 4 A Probably 25, 30. 5 Q Fair to say that the mean follow-up rate would fall below 6 five years, given the huge disparity in those numbers? 7 A Yes. 8 Q Doctor, what was the -- I'm handing you back the other 9 study that we talked about, the tension-free vaginal tape 10 obturator and tension-free vaginal tape secure for the 11 treatment of stress urinary incontinence, the five-year 12 follow-up study. 13 What was the -- what was the primary end point for 14 that study? 15 A Well, the primary end point, they were contacted five 16 years after their procedure. 17 Q Primary end point is -- I'm asking, what were they 18 looking for? What was the goal of the study? 19 A Well, the goal of the study was looking at whether or not 20 TVT-Secur was non-inferior to TVT-O. 21 Q That was a comparison study between two Ethicon TVT 22 products; correct? 23 A Yes. 24 Q That wasn't -- that didn't compare TVT products to other 25 vaginal mesh products?</p>
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<p>1 they kind of go over the demonstration of the different 2 products. Here's 73 months, 48 months. 3 Q Forty-eight months is less than five years; correct? 4 A That's correct. Here's 155 -- oh, no -- five years. So 5 they included studies as short as 12 months and as long 6 as at least five years. 7 Q And, Doctor, that's a meta-analysis; fair? 8 A That's correct. 9 Q That's not a randomized control study? 10 A This is -- well, it's a systematic review and 11 meta-analysis, but it's not randomized controlled trial. 12 Q So it's a meta-analysis, where someone went out and 13 compiled a bunch of retroactive data; fair? 14 A Correct. 15 Q And so not all of the people included in this study had a 16 five-year or greater follow-up; fair? 17 A Yes. 18 Q What percentage of those people does it look like 19 actually did have a five-year or greater follow-up? 20 A Boy, I'd have to be a statistician because you have 21 different denominators for each -- 22 Q Okay. Well -- so are those different studies that you're 23 looking at? 24 A Yes. 25 Q How many of those studies actually had a five-year or</p>	<p>1 A That's correct. 2 Q That didn't compare TVT products to other non-nonmesh 3 options? 4 A That's correct. 5 Q And what was the ultimate conclusion of that article? 6 A That TVT-Secur did not show inferior subjective rate -- 7 success comparisons with TVT-O five years after the 8 procedure. 9 Q And what was the -- when they say "success," are they 10 talking about the effectiveness of the procedure? 11 A Well, these were basically quality of life questionnaires 12 as to the -- whether the patients felt they were very 13 much improved, much improved, or not improved. 14 Q So that study found the TVT-O equivalent to the TVT-S, 15 which has now been taken off of the market? 16 A Yes. 17 Q In terms of how it affected women's quality of life? 18 A Yes. 19 Q All right, Doctor. And then what -- moving on, what are 20 the Gynecare -- the two Gynecare documents that you 21 brought? 22 A One is the TVT-Secur IFU. It's actually -- yes. It's 23 the sketches of how to insert the device. 24 Q And, Doctor, what year is that IFU? 25 A Well, there's a trademark that says 2005, but -- so I</p>

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<p>1 will assume that that's it unless I find something</p> <p>2 different. That seems to be the only date on it.</p> <p>3 Q And by the way, Doctor --</p> <p>4 MR. DEGREEFF: Off the record.</p> <p>5 (Discussion off the record.)</p> <p>6 Q (By Mr. DeGreeff) I think that was -- did we figure out</p> <p>7 that's the 2005 IFU?</p> <p>8 A It must be, yes. Because that's the only date that I can</p> <p>9 see on here.</p> <p>10 Q And what's the other document you've got there in front</p> <p>11 of you?</p> <p>12 A The other is a document dated December of 2005, and it's</p> <p>13 clinical expert report on Gynecare TVT-Secur system.</p> <p>14 Q Okay. And who did that study?</p> <p>15 A Martin Weisberg.</p> <p>16 Q Do you know Dr. Weisberg?</p> <p>17 A I have met him briefly a couple times.</p> <p>18 Q Going back to the 2005 IFU, have you reviewed the 2015</p> <p>19 IFU in preparing your opinions?</p> <p>20 A 2015?</p> <p>21 Q Yes.</p> <p>22 A There -- I don't think there is a TVT-Secur 2015 IFU</p> <p>23 since it's been withdrawn from the market.</p> <p>24 Q Okay. That's what I was unclear on. So this is the</p> <p>25 TVT-Secur IFU for 2005?</p>	<p>1 Q And, Doctor, in Exhibit 4, did you review all of these</p> <p>2 articles and rely on them in rendering your opinions in</p> <p>3 this case, in this litigation?</p> <p>4 A As part of my opinion. Just like all scientific</p> <p>5 articles, you read them and you read them with a</p> <p>6 jaundiced eye and you look at and consider what is being</p> <p>7 said.</p> <p>8 Q Yeah, I guess my question was -- I wasn't --</p> <p>9 A It's not -- it's a part of my opinion, but it's not all</p> <p>10 the articles I would have relied on. There have been</p> <p>11 many.</p> <p>12 Q And I guess that's my question. We'll get to that next.</p> <p>13 But these particular articles in Exhibit 4, did you</p> <p>14 review and rely on these in rendering your opinions? And</p> <p>15 I understand there might be more, but I'm talking about</p> <p>16 these specifically.</p> <p>17 A Yes.</p> <p>18 Q All right. And what do we now have in front of you,</p> <p>19 Doctor?</p> <p>20 A This is the clinical expert report.</p> <p>21 Q Regarding which product?</p> <p>22 A TVT-Secur.</p> <p>23 Q And that was performed by Dr. Weisberg?</p> <p>24 A Yes.</p> <p>25 Q And in what year?</p>
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<p>1 A Yes.</p> <p>2 Q Okay. Gotcha. And what was the purpose of -- strike</p> <p>3 that.</p> <p>4 MR. DEGREEFF: I'm going to mark this</p> <p>5 as Exhibit 5, Doctor.</p> <p>6 (Exhibit No. 5 marked for</p> <p>7 identification.)</p> <p>8 Q (By Mr. DeGreeff) And then, Doctor, what have I just</p> <p>9 marked as Deposition Exhibit 5?</p> <p>10 A "Gynecare TVT-Secur System."</p> <p>11 Q All right. And that's the IFU for 2005?</p> <p>12 A Yes.</p> <p>13 Q And, Doctor, going back to Exhibit 4, which was the stack</p> <p>14 of ten articles we looked at -- so I think we came to an</p> <p>15 agreement that only one of these actually had a -- was a</p> <p>16 five-year follow-up; correct?</p> <p>17 A Greater than five-year follow-up, yes.</p> <p>18 Q And that one compared the TVT-S to the TVT-O based on, I</p> <p>19 guess, the effect it had on the quality of life of women?</p> <p>20 A Yes. But wasn't there another study in there that had</p> <p>21 longer follow-up than that?</p> <p>22 Q It was the meta-analysis --</p> <p>23 A Oh, okay.</p> <p>24 Q -- that -- so we agree it was only one?</p> <p>25 A Yes.</p>	<p>1 A 2005.</p> <p>2 MR. DEGREEFF: Okay. I'm going to</p> <p>3 mark that as Deposition Exhibit 6, Doctor.</p> <p>4 (Exhibit No. 6 marked for</p> <p>5 identification.)</p> <p>6 Q (By Mr. DeGreeff) Have I done that?</p> <p>7 A Yes.</p> <p>8 Q Is this something you reviewed and relied on in rendering</p> <p>9 your report -- I mean, your opinions contained in your</p> <p>10 TVT-S general report?</p> <p>11 A Yes.</p> <p>12 Q All right, Doctor. What else do we have that you brought</p> <p>13 with you? It looks like we've got a binder titled "TVT</p> <p>14 Company Docs"; is that correct?</p> <p>15 A Yes.</p> <p>16 MR. DEGREEFF: And what's in this --</p> <p>17 and I'm marking that as Deposition Exhibit 7.</p> <p>18 (Exhibit No. 7 marked for</p> <p>19 identification.)</p> <p>20 Q (By Mr. DeGreeff) Did I do that, Doctor?</p> <p>21 A Yes, you did.</p> <p>22 Q And what exactly is contained in that binder?</p> <p>23 A This is a historical background on TVT. It has the TVT</p> <p>24 IFU.</p> <p>25 Q Which TVT?</p>

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<p>1 A Retropubic.</p> <p>2 Q Okay.</p> <p>3 A The original.</p> <p>4 Q Is this entire binder retropubic?</p> <p>5 A Oh, I -- let's see. 1997. So far that is the case.</p> <p>6 TVT-O starts as the ninth inclusion. The first eight</p> <p>7 were all retropubic TVT. And then -- in general, and</p> <p>8 then TVT-Secur starts on No. 12. And there are</p> <p>9 articles -- or facts about mechanical versus laser cut.</p> <p>10 And some Ethicon discussions within the company. And</p> <p>11 then a 2005 article about mechanical versus laser cut</p> <p>12 that looks like it was a PowerPoint presentation. And a</p> <p>13 review for laser cut TVT-O.</p> <p>14 Q So, Doctor, is this a binder that you put together?</p> <p>15 A No. No.</p> <p>16 Q Who put this together for you?</p> <p>17 A The attorneys put this together.</p> <p>18 Q And did they select the documents that went into it?</p> <p>19 A They did. It's pretty comprehensive.</p> <p>20 Q Did you review all of those documents?</p> <p>21 A I did.</p> <p>22 Q Did you review them in full?</p> <p>23 A This has been several months, so in full, I've -- I'm</p> <p>24 sure I looked at every page, but I didn't necessarily</p> <p>25 read every page.</p>	<p>1 for me in rendering an opinion.</p> <p>2 Q Did you review any of the design documents for the</p> <p>3 product?</p> <p>4 MR. KOOPMANN: Objection. Form.</p> <p>5 THE WITNESS: I don't recall design</p> <p>6 documents. You mean the original design of the -- of the</p> <p>7 mesh?</p> <p>8 Q (By Mr. DeGreeff) Yeah, the design documents, the</p> <p>9 internal design documents for the mesh product?</p> <p>10 A Well, if you could show me one, I could tell you whether</p> <p>11 I've reviewed it or not.</p> <p>12 Q Well, do you know what I'm talking about when I say</p> <p>13 design documents?</p> <p>14 A Not precisely, no.</p> <p>15 Q Okay.</p> <p>16 A Are you talking about before it was submitted to the FDA?</p> <p>17 Q Well, have you reviewed the design device file?</p> <p>18 MR. KOOPMANN: Objection. Form.</p> <p>19 THE WITNESS: I don't recall.</p> <p>20 Q (By Mr. DeGreeff) As you sit here, do you remember</p> <p>21 recalling any -- reviewing any internal Ethicon documents</p> <p>22 specifically relating to design of the TVT products?</p> <p>23 A I'm sure I've looked at several, but none come to mind</p> <p>24 specifically.</p> <p>25 Q Okay. If you think you looked at several, what did those</p>
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<p>1 Q Any documents in there specifically that you remember</p> <p>2 reading front to back?</p> <p>3 A At this -- well, the IFU is in there, so I have read that</p> <p>4 in the past front to back. I read the historical</p> <p>5 documents about how TVT first was developed. And those</p> <p>6 are the ones that I remember in particular. There are a</p> <p>7 couple PowerPoint presentations that I probably was in --</p> <p>8 present for or were delivered to me.</p> <p>9 Q Doctor, how many of these -- how many of these 34</p> <p>10 documents do you think you actually reviewed in full?</p> <p>11 MR. KOOPMANN: Object to form.</p> <p>12 THE WITNESS: I can't give you an</p> <p>13 exact answer to that, but if you look through it, they're</p> <p>14 historical documents, so I don't -- I didn't spend much</p> <p>15 time at all with the Internet discussions between the</p> <p>16 Ethicon people and the corporation.</p> <p>17 Q (By Mr. DeGreeff) Did you -- in rendering your opinions</p> <p>18 did you rely at all on internal company documents?</p> <p>19 A No.</p> <p>20 Q Why not?</p> <p>21 A I don't find them necessarily relevant.</p> <p>22 Q Why are they not relevant?</p> <p>23 A Well, because a lot of it has to do with research and</p> <p>24 development early on in the development of the products,</p> <p>25 and quite frankly, it's not -- I don't find it relevant</p>	<p>1 documents look like? What did they tell you?</p> <p>2 A Oh, I don't recall. I looked at them prior to the Perry</p> <p>3 trial, I would imagine.</p> <p>4 Q Okay. So -- and the Perry trial was about the TVT</p> <p>5 Abbrevio; correct?</p> <p>6 A Correct.</p> <p>7 Q And we're not here -- you're not rendering any opinions</p> <p>8 in this -- at this point generally about the TVT Abbrevio?</p> <p>9 A No.</p> <p>10 Q So my question is about design documents that would be</p> <p>11 relevant to the products that we're here about. Do you</p> <p>12 remember reviewing any of those design documents?</p> <p>13 A Not specifically.</p> <p>14 Q Well, not specifically. Do you remember reviewing any at</p> <p>15 all?</p> <p>16 A If you put one in front of me, I can tell you whether I</p> <p>17 have or not.</p> <p>18 Q Well, Doctor, you've got them -- are they on your</p> <p>19 reliance list?</p> <p>20 A Some may be.</p> <p>21 Q And did you review everything on your reliance list?</p> <p>22 A I've -- in a general sense, yes. Specifically, I mean,</p> <p>23 there's a lot of documents, and some I may have just</p> <p>24 looked at the title and then what the conclusions were,</p> <p>25 and if something was interesting in there, I would go</p>

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<p>1 into more depth.</p> <p>2 Q Okay. We'll come back to that.</p> <p>3 So you're telling me that you reviewed, to some</p> <p>4 extent, every document on your reliance list?</p> <p>5 A That's my memory, yes.</p> <p>6 Q Okay. We'll go -- come back to that.</p> <p>7 Fair to say, though, that Exhibit 7, TVT Company</p> <p>8 Docs, you did not review in detail every one of these</p> <p>9 documents?</p> <p>10 MR. KOOPMANN: Objection. Form.</p> <p>11 THE WITNESS: Well, I don't know what</p> <p>12 you mean by "in detail." I've reviewed every page in</p> <p>13 there.</p> <p>14 Q (By Mr. DeGreeff) You said some of them you just looked</p> <p>15 at, you didn't actually read them.</p> <p>16 A Well, scanned down to see what the content was and to see</p> <p>17 whether I felt it was relevant.</p> <p>18 Q Didn't you just tell me that you didn't look at the</p> <p>19 internal documents that were in here?</p> <p>20 A Well, the -- some of the -- I would start out on an</p> <p>21 internal document, and if I found out that it wasn't</p> <p>22 relevant, I'd stop reading it.</p> <p>23 Q Didn't you just tell me that you thought all of the</p> <p>24 internal documents were irrelevant to your opinions?</p> <p>25 A Were irrelevant? No, I didn't say that, or if I said</p>	<p>1 you read every single page and did you rely on it when</p> <p>2 you had tests on it?</p> <p>3 MR. DEGREEFF: Move to strike.</p> <p>4 Q (By Mr. DeGreeff) And, Doctor, just so you know, that's</p> <p>5 not how this process works. I ask questions. You</p> <p>6 respond. You get that?</p> <p>7 A Right. Well, I'm trying to be responsive, but your</p> <p>8 question, I don't find to be responsive to me.</p> <p>9 Q Doctor, you don't get to choose whether you like my</p> <p>10 questions or not. You respond to what I ask you. You</p> <p>11 understand that; right?</p> <p>12 A I don't like your tone.</p> <p>13 Q Doctor --</p> <p>14 A With a civil tone we'll do better.</p> <p>15 Q Doctor, my tone is not the problem here. The problem is</p> <p>16 the lack of a genuine response to the questions I've</p> <p>17 asked.</p> <p>18 A Well, I'm --</p> <p>19 MR. KOOPMANN: Objection. Let's just</p> <p>20 keep going. Questions, answers.</p> <p>21 Q (By Mr. DeGreeff) Okay. What else have you got in here,</p> <p>22 Doctor? Let's see. Another binder called "Dr. Douglas</p> <p>23 Grier, TVT-Secur General Report."</p> <p>24 What's this particular document, Doctor? Excuse me.</p> <p>25 That binder.</p>
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<p>1 that, that's not what I was intending.</p> <p>2 Q Which internal documents did you review, Doctor?</p> <p>3 A There's hundreds of documents here. If you show me one,</p> <p>4 I'll tell you if I reviewed it, or if you want me to look</p> <p>5 at that, I'll show you which I have reviewed.</p> <p>6 Q Doctor, it's not my job to go through your reliance list</p> <p>7 with you. It -- when I ask you if you've reviewed</p> <p>8 internal Ethicon documents, are there any that</p> <p>9 specifically stick out in your head as important to your</p> <p>10 opinions?</p> <p>11 A None specifically that I recall at this moment. The ones</p> <p>12 that are milestones are the ones where there's FDA</p> <p>13 approval. The IFUs are internal documents. Not</p> <p>14 necessarily when one employee of Ethicon is discussing</p> <p>15 the technical aspects of production or some of the</p> <p>16 biomechanics I already understand, and so they're</p> <p>17 repeated multiple times in the documents.</p> <p>18 Q Okay. And so I guess my question is, as we sit here, you</p> <p>19 can't tell me one specific internal document that you</p> <p>20 found particularly important?</p> <p>21 A I --</p> <p>22 MR. KOOPMANN: Objection. Form.</p> <p>23 THE WITNESS: I don't recall at this</p> <p>24 moment. I would ask you, when you were in law school and</p> <p>25 you had a tort book that you were supposed to read, did</p>	<p>1 A This binder contains multiple studies on TVT. It has my</p> <p>2 general report in it, and it has articles that I reviewed</p> <p>3 for my opinion. It has the different specialty body</p> <p>4 position papers on the use of mesh and different papers</p> <p>5 comparing Burches. It has an article on abdominal wall</p> <p>6 hernia repair using mesh.</p> <p>7 Q And, Doctor, you don't have to go through every one of</p> <p>8 them in general. I'm just kind of trying to figure out</p> <p>9 in general what categories of documents are in there.</p> <p>10 A Well, scientific papers. Papers that are produced by the</p> <p>11 different specialty bodies, like AUGS and SUFU, and</p> <p>12 multiple articles and abstracts. There's an article on</p> <p>13 the elongation characteristics of TVT Prolene. There's</p> <p>14 an expert report on mechanical mesh versus laser cut.</p> <p>15 There's an IFU for TVT-Secur.</p> <p>16 There is a research and development memorandum on</p> <p>17 mesh for TVT-O. There is some comment on FDA hearing in</p> <p>18 2011, the FDA executive summary. A Cochrane review of</p> <p>19 midurethral slings. Long-term efficacy of TVT --</p> <p>20 Q Maybe we can do this. Is this all articles and clinical</p> <p>21 studies? Is that essentially what's in there?</p> <p>22 A Yes.</p> <p>23 Q Okay. And that -- is this a binder that you prepared,</p> <p>24 yourself?</p> <p>25 A No.</p>

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<p>1 Q Who prepared that binder for you?</p> <p>2 A The attorneys, after sending me these articles for</p> <p>3 review.</p> <p>4 Q Are those all articles that the attorneys sent you?</p> <p>5 A Yes.</p> <p>6 Q Okay. Those weren't articles that you did a systematic</p> <p>7 review and found them yourself?</p> <p>8 MR. KOOPMANN: Objection. Form.</p> <p>9 THE WITNESS: Well, I'm looking at one</p> <p>10 that I wrote, that I was -- I participated in. There are</p> <p>11 just multiple studies.</p> <p>12 Q (By Mr. DeGreeff) That wasn't my question.</p> <p>13 A Oh, sorry.</p> <p>14 Q Did you do an independent systematic review and decide on</p> <p>15 which articles you wanted to review in rendering your</p> <p>16 opinions?</p> <p>17 A Not this extensive. I've read the literature for the</p> <p>18 last ten, fifteen years, and so I keep abreast of it. So</p> <p>19 not every article is in journals that I have -- that I</p> <p>20 get.</p> <p>21 Q Okay. So I think the answer to my question is no, you</p> <p>22 didn't do an independent systematic review for the</p> <p>23 literature that's on your reliance list?</p> <p>24 A Yes, that's correct.</p> <p>25 Q And you didn't put together that binder. Defense counsel</p>	<p>1 were negative to your opinions?</p> <p>2 A Yes.</p> <p>3 Q Okay. And did you just choose not to rely on those?</p> <p>4 A No. When you say negative to my opinions, there's a</p> <p>5 variation in all scientific articles in terms of adverse</p> <p>6 events, safety, efficacy, success rates, and that's how</p> <p>7 you form an opinion.</p> <p>8 (Exhibit No. 8 marked for</p> <p>9 identification.)</p> <p>10 Q (By Mr. DeGreeff) And, Doctor, I've marked that binder</p> <p>11 as Exhibit 8; is that correct?</p> <p>12 A Yes.</p> <p>13 Q And so I -- just so I'm clear, did you or did you not</p> <p>14 review and rely on all of those articles in rendering</p> <p>15 your opinions?</p> <p>16 A I --</p> <p>17 MR. KOOPMANN: Take your time and look</p> <p>18 at the entire index.</p> <p>19 THE WITNESS: I recognize just about</p> <p>20 this entire index, the names of these authors. I've read</p> <p>21 an article on every one of these.</p> <p>22 Q (By Mr. DeGreeff) Doctor, how much total time did you</p> <p>23 spend reviewing materials in reaching the opinions in</p> <p>24 your reports, your general reports on TVT and the other</p> <p>25 products in this litigation?</p>
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<p>1 did.</p> <p>2 A Correct.</p> <p>3 Q And defense counsel selected the articles that are in</p> <p>4 that binder?</p> <p>5 MR. KOOPMANN: Objection. Form.</p> <p>6 Misstates the record.</p> <p>7 MR. DEGREEFF: I don't think it does.</p> <p>8 THE WITNESS: Well, I don't know what</p> <p>9 they -- how they selected them.</p> <p>10 Q (By Mr. DeGreeff) You --</p> <p>11 A They're not all positive articles.</p> <p>12 Q Well, that's true too, but you didn't select all of</p> <p>13 those; correct?</p> <p>14 A Correct.</p> <p>15 Q Those were selected for someone else -- by someone else</p> <p>16 for you?</p> <p>17 A Yes.</p> <p>18 Q And they were sent to you by defense counsel?</p> <p>19 A Yes.</p> <p>20 Q And did you review all of the articles in that binder?</p> <p>21 A The majority of them, yes.</p> <p>22 Q Okay. Did you review -- did you rely on all the articles</p> <p>23 in that binder?</p> <p>24 A I relied on all those that I reviewed.</p> <p>25 Q And which ones -- did you review those that were -- that</p>	<p>1 A I'm sure over 100 hours.</p> <p>2 Q And that's at \$500 an hour; correct?</p> <p>3 A Yes.</p> <p>4 MR. KOOPMANN: Counsel, would you mind</p> <p>5 just sitting when you're asking questions, as long as</p> <p>6 you're not going through the box.</p> <p>7 MR. DEGREEFF: Well, I am going</p> <p>8 through the box, but I mean, I'm going to kind of do what</p> <p>9 I want to do. I'm not trying to be a jerk, but if I want</p> <p>10 to stand up while I'm looking through stuff, I'm kind of</p> <p>11 going to, Barry.</p> <p>12 MR. KOOPMANN: Okay.</p> <p>13 MR. JONES: It's not that different</p> <p>14 from what defense counsel has been doing the last couple</p> <p>15 weeks during depositions.</p> <p>16 MR. KOOPMANN: I'm not all defense</p> <p>17 counsel.</p> <p>18 MR. DEGREEFF: You're not, Barry.</p> <p>19 And, Barry, you're not doing anything wrong, but I'm just</p> <p>20 standing up as we go --</p> <p>21 MR. KOOPMANN: I know you're not</p> <p>22 trying to intimidate, but it's just a little unusual.</p> <p>23 THE WITNESS: Well, it's hard to make</p> <p>24 eye contact with you if you stand.</p> <p>25 MR. DEGREEFF: I don't know that we</p>

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<p>1 would line up anyways.</p> <p>2 Q (By Mr. DeGreeff) So we've got Deposition Exhibit 8. My</p> <p>3 question was pretty simple. Have you reviewed in detail</p> <p>4 all of the literature included in that binder?</p> <p>5 A In looking at it, yes. But this binder was produced to</p> <p>6 be a compendium. I read -- I didn't read them out of</p> <p>7 this binder, but I've read everything in this binder as</p> <p>8 articles -- I found articles and articles were sent to</p> <p>9 me.</p> <p>10 Q So you read the articles as defense counsel sent them to</p> <p>11 you?</p> <p>12 MR. KOOPMANN: Objection. Form.</p> <p>13 THE WITNESS: Yes.</p> <p>14 Q (By Mr. DeGreeff) I've just handed you another binder,</p> <p>15 and what's that one titled?</p> <p>16 A This one's "TVT-O General Reports and Sources."</p> <p>17 (Exhibit No. 9 marked for</p> <p>18 identification.)</p> <p>19 Q (By Mr. DeGreeff) All right. Mark that as Deposition</p> <p>20 Exhibit 9. Have I so marked that, Doctor?</p> <p>21 A Yes.</p> <p>22 Q Okay. And what is included in there. And I'll sit down</p> <p>23 for Barry.</p> <p>24 MR. KOOPMANN: Thanks.</p> <p>25 THE WITNESS: Well, these are articles</p>	<p>1 Q Who prepared that for you?</p> <p>2 A The attorneys.</p> <p>3 Q And did you -- were those -- the articles that are</p> <p>4 included in there, were those articles that were sent to</p> <p>5 you by defense counsel?</p> <p>6 MR. KOOPMANN: Objection. Form.</p> <p>7 THE WITNESS: Yes.</p> <p>8 Q (By Mr. DeGreeff) Again, you didn't do an independent</p> <p>9 systematic review to come up with those articles?</p> <p>10 A Well, that -- I did not. Because that takes a lot of</p> <p>11 man-hours, and I'd rather spend my time reading the</p> <p>12 articles than searching for them.</p> <p>13 Q Okay. And so did you do anything to confirm that defense</p> <p>14 counsel sent you all of the relevant and important</p> <p>15 articles necessary to render your opinions in a fair and</p> <p>16 biased -- and unbiased manner?</p> <p>17 MR. KOOPMANN: Objection to form.</p> <p>18 THE WITNESS: Well, I go to specialty</p> <p>19 meetings where we discuss these products, their safe use,</p> <p>20 their efficacy, the adverse events that can happen, and</p> <p>21 render opinions not just through these articles, but in</p> <p>22 general over time, because there's a lot of articles that</p> <p>23 I have read and reviewed that are not in here, that are</p> <p>24 more recent.</p> <p>25 Q (By Mr. DeGreeff) Are those on your reliance list?</p>
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<p>1 going back to 2007, I think, maybe -- to 2005, 2002.</p> <p>2 There's the Ward article. So -- and there's even the</p> <p>3 Petros 1990 article on the integral theory of female</p> <p>4 urinary incontinence, so it's a compendium of articles</p> <p>5 that are historic.</p> <p>6 Q (By Mr. DeGreeff) Relating to the TVT-O?</p> <p>7 A Correct. Well, TVT, in general, and TVT-O because some</p> <p>8 of these articles are before it was -- it was a product,</p> <p>9 before it was developed.</p> <p>10 Q And, Doctor, going back to Exhibit 8, that binder we just</p> <p>11 talked about, are those -- the white one.</p> <p>12 A Oh, this one.</p> <p>13 Q Are those all articles that you're relying on in</p> <p>14 rendering your opinions?</p> <p>15 A It's a source of -- yes. It's a source of articles. But</p> <p>16 when you say relying on them, not all the articles I've</p> <p>17 found relevant. So that's a hard statement to make, that</p> <p>18 everything in here -- you're saying am I in agreement</p> <p>19 with it or I'm relying on the scientific data --</p> <p>20 Q Will you be prepared to discuss all of those articles at</p> <p>21 trial in this case?</p> <p>22 A I certainly can.</p> <p>23 Q Okay. All right. Exhibit 9, is that a binder that you</p> <p>24 prepared, yourself?</p> <p>25 A No.</p>	<p>1 A I don't think they are.</p> <p>2 Q Did you bring them with you?</p> <p>3 A I did not. Because -- I'm talking about the AUGS meeting</p> <p>4 that was in October, so they were abstracts amongst --</p> <p>5 general abstracts and papers, but they're broad.</p> <p>6 Q Anything that's actually published now --</p> <p>7 A Oh, I'm sure.</p> <p>8 Q -- or just an abstract form?</p> <p>9 A No, I'm sure a lot of them are published.</p> <p>10 Q And you're relying on those for your opinions?</p> <p>11 A Yes. I rely on those for some of my opinions, yes.</p> <p>12 Q Can you provide those to defense counsel to provide to us</p> <p>13 then?</p> <p>14 A I could probably get the syllabus for AUGS.</p> <p>15 Q Well, can you tell me the name of any of those articles,</p> <p>16 as you sit here?</p> <p>17 A No.</p> <p>18 Q Can you tell me who the author was of any of those</p> <p>19 articles?</p> <p>20 A Well, one was Pamela Moalli out of Pittsburgh.</p> <p>21 Q And what was that article about?</p> <p>22 A It was talking about the -- the inflammatory responses of</p> <p>23 cells as mesh is incorporated in the body. There were a</p> <p>24 couple articles on using lightweight mesh for abdominal</p> <p>25 sacrocolpopexy. And in general, there were discussions</p>

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<p>1 which were not published, but discussions about where</p> <p>2 mesh is at this point in terms of its usability and</p> <p>3 reliability due to litigation.</p> <p>4 Q Okay. And why would you want to use lighter-weight mesh?</p> <p>5 A Well, there's a theoretical advantage that the lighter</p> <p>6 the mesh is, the easier the body has in incorporating it</p> <p>7 and the more biologically pliant it is. So there's been</p> <p>8 research and development with the goal of creating</p> <p>9 lighter-weight meshes over the last 15 years.</p> <p>10 Q Ethicon's been working on lighter-weight mesh; correct?</p> <p>11 A I really don't know what Ethicon's been doing for the</p> <p>12 last five years in terms of where they're at in terms of</p> <p>13 meshes. The last mesh I remember that they introduced</p> <p>14 was the Y-mesh for abdominal sacrocolpopexy.</p> <p>15 Q Well, you were still a consultant for Ethicon in 2014;</p> <p>16 correct?</p> <p>17 A I don't think I was.</p> <p>18 Q You've never seen your consulting agreement from 2014?</p> <p>19 A I don't recall one.</p> <p>20 Q Okay. Well, we can take a look at it later, but did you</p> <p>21 have a consulting agreement with them in 2015?</p> <p>22 A I can't -- no. I'm sure I didn't. I haven't talked to</p> <p>23 Ethicon in probably three years. I can't remember</p> <p>24 anyone -- we don't have a rep in this area. The -- I</p> <p>25 don't remember the last time I even had a rep for</p>	<p>1 A Oh, I did actually, some. What I don't have is the 1099.</p> <p>2 I have not received one yet.</p> <p>3 Q Do you have your 1099s for any of the years that you were</p> <p>4 working for Ethicon?</p> <p>5 A When I filed taxes, sure.</p> <p>6 Q When you were reviewing the notice, did you see that that</p> <p>7 was requested?</p> <p>8 A I saw that was there, and the -- my relevant 1099, I am</p> <p>9 still tracking down.</p> <p>10 MR. KOOPMANN: For the record,</p> <p>11 Counsel, we'll be filing some objections to the</p> <p>12 deposition notice.</p> <p>13 MR. DEGREEFF: Well, that's something</p> <p>14 that you file before the deposition.</p> <p>15 MR. KOOPMANN: Well, I'm told that</p> <p>16 from the -- one of the pretrial orders, it's permissible</p> <p>17 to file it after the fact.</p> <p>18 Q (By Mr. DeGreeff) So you didn't bring with you any of</p> <p>19 your 1099s from the times you were working with --</p> <p>20 A No.</p> <p>21 Q -- with Ethicon?</p> <p>22 A No.</p> <p>23 Q Were you aware that was requested?</p> <p>24 A I don't recall it.</p> <p>25 Q You didn't see it in the notice that you said you</p>
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<p>1 Ethicon. It's been, I want to say, three years.</p> <p>2 Q Well, when you say you haven't talked to Ethicon, you've</p> <p>3 been an expert for them in litigation; correct?</p> <p>4 A Right. But nothing -- none of the company members -- the</p> <p>5 Ethicon Gynecare business was moved, and so there isn't</p> <p>6 anyone who I know of who represents these products.</p> <p>7 Q Let's go back, Doctor. You said earlier that you had</p> <p>8 about 100 hours into reviewing the materials to render</p> <p>9 your opinion in this case; right?</p> <p>10 A Okay.</p> <p>11 Q And you're making -- you're being paid \$500 an hour; is</p> <p>12 that correct?</p> <p>13 A Yes.</p> <p>14 Q Correct me if I'm wrong, Doctor, but that's roughly</p> <p>15 \$50,000?</p> <p>16 A You did the math well.</p> <p>17 Q Okay. Have you been paid over \$50,000 thus far for</p> <p>18 your -- to render your opinions in this case, in this</p> <p>19 litigation?</p> <p>20 MR. KOOPMANN: Objection to form.</p> <p>21 THE WITNESS: I'm sure I have. I</p> <p>22 don't know the number.</p> <p>23 Q (By Mr. DeGreeff) Did you bring your bills with you?</p> <p>24 A I did not.</p> <p>25 Q Do you have bills? Have you issued bills?</p>	<p>1 reviewed?</p> <p>2 A Well, I saw a notice. But the 1099s I thought would be</p> <p>3 relevant would be the last year that I've been retained</p> <p>4 to review the -- and testify since Perry.</p> <p>5 Q Did you ask -- did you ask Counsel whether you should</p> <p>6 bring those 1099s?</p> <p>7 A I did not ask Counsel.</p> <p>8 Q Have you submitted any invoices for your work thus far in</p> <p>9 this litigation to defense counsel?</p> <p>10 A Yes.</p> <p>11 Q Did you bring those with you?</p> <p>12 A I think we copied them all, yes.</p> <p>13 Q Do you know where they are?</p> <p>14 A Did I slip them in one --</p> <p>15 MR. KOOPMANN: I wonder if they're not</p> <p>16 in your Prolift binder. We have them electronically,</p> <p>17 though. We can put them on a thumb drive.</p> <p>18 THE WITNESS: Downloaded onto one of</p> <p>19 the thumb drives.</p> <p>20 MR. KOOPMANN: We've -- I think he</p> <p>21 printed them, and I think they're with his Prolift stuff.</p> <p>22 So you can either get it tomorrow --</p> <p>23 MR. JONES: Bring them tomorrow.</p> <p>24 MR. DEGREEFF: That's fine.</p> <p>25 Q (By Mr. DeGreeff) Doctor, can you give me an idea of</p>

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<p>1 about the total amount you've billed to the defense for</p> <p>2 your work on this litigation at this point?</p> <p>3 A "This litigation" being --</p> <p>4 Q Everything you've billed them in rendering your general</p> <p>5 and specific opinions thus far in this litigation.</p> <p>6 A I embarrassingly don't know what the amount is.</p> <p>7 Q When you talked about the 100 hours that we referenced</p> <p>8 earlier, did that also include time for actually writing</p> <p>9 your report?</p> <p>10 A Yes.</p> <p>11 Q Did you actually write that report?</p> <p>12 A Yes.</p> <p>13 MR. KOOPMANN: Objection to form.</p> <p>14 Q (By Mr. DeGreeff) Yeah, please bring that tomorrow, if</p> <p>15 you would, Doctor.</p> <p>16 Exhibit 9, I believe, is in front of you. Have you</p> <p>17 reviewed all of the literature there in detail?</p> <p>18 A I think I have.</p> <p>19 Q And are you -- excuse me. Go ahead.</p> <p>20 A No, I'm just looking at the list.</p> <p>21 Q And are you relying on that literature in rendering your</p> <p>22 opinions in the -- both your general and specific</p> <p>23 opinions in this litigation?</p> <p>24 A Yes.</p> <p>25 Q All right. And we've got another one, another binder.</p>	<p>1 A My memory, last time I saw him was when I did a cadaver</p> <p>2 lab with about ten surgeons from around the country on</p> <p>3 the TVT-O. It was our first experience with the TVT-O,</p> <p>4 and we were using the device prior to having used it in</p> <p>5 our practices.</p> <p>6 And another article by Leval and Waltigney on the</p> <p>7 one-year follow-up on TVT-O. And Leval's white paper on</p> <p>8 the TVT-O.</p> <p>9 Q Who is Leval?</p> <p>10 A Jean Leval is a Belgian urologist out of Liege, Belgium,</p> <p>11 as I recall, and he was the developer of the inside-out</p> <p>12 approach for transobturator slings.</p> <p>13 Q Do you know Dr. Leval?</p> <p>14 A I met him once. He does not speak English. Talked to</p> <p>15 him through a -- an interpreter.</p> <p>16 Q You met -- did you meet Dr. Leval and Dr. Weisberg at</p> <p>17 Ethicon events?</p> <p>18 A Yes. Yes.</p> <p>19 Q So fair to say that that binder you're looking at</p> <p>20 contains just a bunch of materials that are on TVT-O?</p> <p>21 A Yes.</p> <p>22 Q And did you put that binder together, yourself?</p> <p>23 A No.</p> <p>24 Q Was that put together for you by defense counsel?</p> <p>25 A Yes.</p>
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<p>1 Doctor, what's this? Wait. This might be your --</p> <p>2 detailed procedure analysis by date? Is that -- I don't</p> <p>3 know. That's something else, I think.</p> <p>4 Doctor, what's that binder?</p> <p>5 MR. DEGREEFF: And let's mark it as</p> <p>6 Deposition Exhibit 10. Would you mind popping that on</p> <p>7 there?</p> <p>8 (Exhibit No. 10 marked for</p> <p>9 identification.)</p> <p>10 THE WITNESS: This is TVT-obturator,</p> <p>11 and it has the history and background of the</p> <p>12 TVT-obturator. It has Jean Leval's [sic] original paper.</p> <p>13 It has the TVT-obturator IFU. It has the notice that it</p> <p>14 received FDA clearance in 2003. It has -- I'm not sure</p> <p>15 what you call it -- brochures on the product that were</p> <p>16 distributed to physicians. It has a clinical expert</p> <p>17 report by Marty Weisberg.</p> <p>18 Q (By Mr. DeGreeff) Do you know who Marty Weisberg is?</p> <p>19 A He was the -- the chief medical officer -- his title was</p> <p>20 medical director of Gynecare back ten, fifteen years ago.</p> <p>21 Q And Gynecare is Ethicon; right?</p> <p>22 A Correct.</p> <p>23 Q Did you know Marty Weisberg?</p> <p>24 A I've been in the room with him a couple times.</p> <p>25 Q On what occasions?</p>	<p>1 Q Did defense counsel select the documents that went into</p> <p>2 that binder?</p> <p>3 A Yes.</p> <p>4 Q Have you reviewed all of the documents in that binder?</p> <p>5 A Well, I've reviewed them -- a lot of them I've reviewed</p> <p>6 before they ever were put in the binder, before I was</p> <p>7 ever asked to review them.</p> <p>8 Q Okay. So my question was a little different than that.</p> <p>9 Have you reviewed -- and I don't care when you</p> <p>10 reviewed them. Have you reviewed all of the lit -- all</p> <p>11 of the documents that are in that binder?</p> <p>12 A Well, no. The ones I haven't reviewed were the pre-FDA</p> <p>13 design documents, which are very tedious, and I didn't</p> <p>14 find relevant.</p> <p>15 Q So fair to say, you did not review the design documents</p> <p>16 that were relied on by Ethicon for approval by the FDA?</p> <p>17 MR. KOOPMANN: Objection to form.</p> <p>18 THE WITNESS: That's true.</p> <p>19 Q (By Mr. DeGreeff) Anything else?</p> <p>20 A Well, there's just a bunch of minutes and discussions by,</p> <p>21 I guess, engineers within the -- within the company on</p> <p>22 the product specifications and the launch of the product.</p> <p>23 Q And did you review those?</p> <p>24 A I did not.</p> <p>25 Q Why not?</p>

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<p>1 A Well, because I don't find it relevant.</p> <p>2 Q And that's the -- those are memos done by the engineers</p> <p>3 who designed the product?</p> <p>4 A Correct.</p> <p>5 Q Why did you not find that relevant?</p> <p>6 A Well, because it's tremendously tedious, and it's not</p> <p>7 clinically relevant. It was how they developed the</p> <p>8 product and -- the device, and it's kind of too technical</p> <p>9 for my interest.</p> <p>10 Q And you didn't -- so you didn't review that in rendering</p> <p>11 your opinions?</p> <p>12 A No.</p> <p>13 Q Did you review any documents related to the -- kind of</p> <p>14 the -- what you referred to as the tedious portion of the</p> <p>15 design of the -- of the document and getting FDA</p> <p>16 approval?</p> <p>17 MR. KOOPMANN: Objection. Form.</p> <p>18 THE WITNESS: There may be a few that</p> <p>19 I reviewed.</p> <p>20 Q (By Mr. DeGreeff) Which ones? Any as you sit here that</p> <p>21 you remember?</p> <p>22 A My patients' list at home.</p> <p>23 Q I was wondering how that got in there.</p> <p>24 A Yeah, that just got -- it fell in.</p> <p>25 The ones I reviewed were -- see, a lot of this is</p>	<p>1 MR. KOOPMANN: Objection. Form.</p> <p>2 THE WITNESS: I will say no. I will</p> <p>3 say, though, that -- that all of us give feedback to the</p> <p>4 companies that we use mesh, as to what might be better</p> <p>5 about it.</p> <p>6 Q (By Mr. DeGreeff) I think we agree. My question is</p> <p>7 pretty simple. Yes or no, are you holding yourself --</p> <p>8 yes, no, or you can't answer. Are you holding yourself</p> <p>9 out as an expert on the design of transvaginal mesh</p> <p>10 products?</p> <p>11 MR. KOOPMANN: Objection. Form.</p> <p>12 Asked and answered.</p> <p>13 THE WITNESS: Do I answer?</p> <p>14 MR. KOOPMANN: Go ahead, yeah.</p> <p>15 THE WITNESS: So I am not a product</p> <p>16 engineer that has designed mesh products. However, I</p> <p>17 have used them, and I have opinions about what -- what is</p> <p>18 good or bad about a particular product, which I have</p> <p>19 expressed to multiple companies when asked. So -- but I</p> <p>20 am not an engineer.</p> <p>21 Q (By Mr. DeGreeff) Let's try this again. Doctor, yes,</p> <p>22 no, or you cannot answer my question as it's phrased:</p> <p>23 Are you holding yourself out as an expert in the design</p> <p>24 of transvaginal mesh products?</p> <p>25 MR. KOOPMANN: Same objection.</p>
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<p>1 just -- it's not even in English. It's the documents</p> <p>2 that are -- came out of Belgium that aren't even</p> <p>3 translated, so I certainly didn't read those.</p> <p>4 The others were just kind of how the sheath was</p> <p>5 developed, not the actual sling, but the sheath that</p> <p>6 helps place it. So these -- and, you know, this TVT flow</p> <p>7 of process qualifications, I looked at it. It's a very</p> <p>8 technical engineering document on the product production.</p> <p>9 I'm not an engineer, so it's not relevant to me. There's</p> <p>10 just a lot of that. How to package it, what kind of box</p> <p>11 it should be in, things --</p> <p>12 Q So you're not an engineering expert; correct?</p> <p>13 MR. KOOPMANN: Objection. Form.</p> <p>14 THE WITNESS: I'm not an engineering</p> <p>15 expert, but I am an expert on the use and placement and</p> <p>16 management of vaginal mesh because that's what I've done</p> <p>17 a lot of.</p> <p>18 Q (By Mr. DeGreeff) That doesn't make you -- you are</p> <p>19 not --</p> <p>20 A It does not make me an engineer.</p> <p>21 Q You're not holding yourself out as an expert in the field</p> <p>22 of engineering, are you, Doctor?</p> <p>23 A No, of course not.</p> <p>24 Q And fair to say, you're not holding yourself out as an</p> <p>25 expert in the field of transvaginal mesh design?</p>	<p>1 THE WITNESS: No, I'm not a design</p> <p>2 expert.</p> <p>3 Q (By Mr. DeGreeff) Doctor, one more binder. And I don't</p> <p>4 know -- let's see. This says --</p> <p>5 A That's TVT and TVT-O. I think it's -- is it long-term</p> <p>6 studies? It's a series of studies. Now, some of this is</p> <p>7 contained in these other binders.</p> <p>8 Q I was going to ask, this says long-term studies. Does</p> <p>9 this contain the same ten studies that we talked about</p> <p>10 earlier?</p> <p>11 A If you'd hand it to me, I could answer that.</p> <p>12 MR. DEGREEFF: Sure, I will. Let's</p> <p>13 mark this. I'll mark this as Deposition Exhibit 11.</p> <p>14 (Exhibit No. 11 marked for</p> <p>15 identification.)</p> <p>16 Q (By Mr. DeGreeff) Have I done so?</p> <p>17 A Yes.</p> <p>18 Q And can you tell us the -- before we get started, can you</p> <p>19 tell us the title of that?</p> <p>20 A "TVT and TVT-O Long-Term Studies for Experts."</p> <p>21 Q Why would that be called long-term studies for experts</p> <p>22 rather than long-term studies for Dr. Grier?</p> <p>23 A Well, because this series of articles, which are</p> <p>24 long-term, is probably used by other -- other</p> <p>25 gynecologists or urologists who have been asked to be</p>

18 (Pages 66 to 69)

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<p>1 involved in giving opinions about this litigation.</p> <p>2 Q So that's a binder put together by the defense?</p> <p>3 A Yes.</p> <p>4 Q And they provided that to you?</p> <p>5 A Yes. But these -- a lot of these articles I hold dear.</p> <p>6 I've seen years ago.</p> <p>7 Q Yeah, and that's not my question. I appreciate that,</p> <p>8 though.</p> <p>9 That was put together by defense counsel?</p> <p>10 A Yes.</p> <p>11 Q Provided to you; correct?</p> <p>12 A Yes.</p> <p>13 Q You did not select the documents that are in that binder?</p> <p>14 A Correct.</p> <p>15 Q In fact, it's titled as for all experts, not just for</p> <p>16 you; correct?</p> <p>17 A Yes. It doesn't say "all experts," it just says</p> <p>18 "experts."</p> <p>19 Q Okay. It does. "Experts" is plural --</p> <p>20 A Correct.</p> <p>21 Q -- do we agree on that?</p> <p>22 All right. Now, what -- does that contain the</p> <p>23 same --</p> <p>24 A No.</p> <p>25 Q -- ten documents that we talked about earlier?</p>	<p>1 disclosure necessary for people to figure out whether</p> <p>2 there's bias?</p> <p>3 A Well, occasionally scientists are not objective.</p> <p>4 Q Well, just in general, is it fair to say that</p> <p>5 occasionally people who are -- who are paid by others are</p> <p>6 not objective?</p> <p>7 MR. KOOPMANN: Objection. Form.</p> <p>8 THE WITNESS: I -- well, I -- I can't</p> <p>9 say that at all. Again, these studies require financial</p> <p>10 support from something, someone, somebody. And we're</p> <p>11 always struggling for financial support.</p> <p>12 I am the finance committee chairman of my hospital</p> <p>13 system, and tomorrow night after the deposition I have a</p> <p>14 couple different physicians who are going to ask for</p> <p>15 financial support for research they're doing within the</p> <p>16 hospital. And we have to decide whether we give them</p> <p>17 that support. So I don't know if that --</p> <p>18 Q (By Mr. DeGreeff) Well, let me ask you a question real</p> <p>19 quick. That will be the hospital funding them; correct?</p> <p>20 A No. It comes from the medical staff, the physician</p> <p>21 funding, from our own medical staff.</p> <p>22 Q Not the --</p> <p>23 A If the hospital's not willing to fund it.</p> <p>24 Q It won't be funded by pharmaceutical companies?</p> <p>25 A No.</p>
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<p>1 A No.</p> <p>2 Q Are some of them duplicative to what we talked about</p> <p>3 earlier?</p> <p>4 A Well, they are -- ooh.</p> <p>5 Q Is there an index in there maybe?</p> <p>6 A There's an index, but it simply has the names. These are</p> <p>7 more long-term articles than the others. Now, the others</p> <p>8 were, I think, referring more to TVT-Secur, which there</p> <p>9 aren't many long-term articles because it was the last</p> <p>10 one on the market and people stopped studying it four</p> <p>11 years ago because it was withdrawn.</p> <p>12 So here's Nilsson's 17-year follow-up. And --</p> <p>13 Q Who paid for Dr. Nilsson to do that study?</p> <p>14 A I don't know.</p> <p>15 Q Is the -- do you look -- when you're reading an article,</p> <p>16 do you look at the conflict of interest disclosure?</p> <p>17 A I look at that. And every article and every lecture that</p> <p>18 is given, we all, part of what is considered industry</p> <p>19 standard, disclose whatever financial affiliations we</p> <p>20 have, not just for this -- the particular article, but in</p> <p>21 general.</p> <p>22 Q Why is that important?</p> <p>23 A Because it helps you form an opinion about whether</p> <p>24 there's bias.</p> <p>25 Q And why would there -- why is a conflict of interest</p>	<p>1 Q Now, the disclosure -- I believe you told me the conflict</p> <p>2 of interest disclosure is so that people can evaluate</p> <p>3 bias; is that fair?</p> <p>4 A Potential bias.</p> <p>5 Q And I think we agree that's because there's potential</p> <p>6 bias anytime someone is receiving payment; is that fair?</p> <p>7 A That's a fair statement, potential, yes. I would say</p> <p>8 that we all have a reputation that we hold dearly, and</p> <p>9 there are very few physicians that I know of on record or</p> <p>10 personally who ever violate that because then they lose</p> <p>11 standing and no one would support their opinions in the</p> <p>12 future.</p> <p>13 Q The industry standard requires doctors to disclose</p> <p>14 potential conflicts of interest in presentations and</p> <p>15 articles; fair?</p> <p>16 MR. KOOPMANN: Objection to form.</p> <p>17 THE WITNESS: Yes. There's an</p> <p>18 industry standard, yes. And society standard.</p> <p>19 Q (By Mr. DeGreeff) How many of those -- what exhibit is</p> <p>20 that? I've lost track.</p> <p>21 A That's --</p> <p>22 Q Exhibit 11 maybe?</p> <p>23 A Yes.</p> <p>24 Q How many of those articles in Exhibit 11 --</p> <p>25 A Have I read?</p>

19 (Pages 70 to 73)

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<p>1 Q -- have follow-up that's five years or greater?</p> <p>2 A The first one, 11 years.</p> <p>3 Q Now, let's talk about -- are these meta-analysis we're</p> <p>4 talking about or are these randomized controlled studies?</p> <p>5 A Well, the 11-year is a prospective follow-up of multiple</p> <p>6 sites in Scandinavia.</p> <p>7 Q Okay. And what --</p> <p>8 A The --</p> <p>9 Q Maybe tell us what tab number that is? 1?</p> <p>10 A That's 1.</p> <p>11 Q Okay. And so what was the average time to follow up</p> <p>12 then?</p> <p>13 A Well, 11.5 years.</p> <p>14 Q Okay. So let's make this shorter maybe. How many of</p> <p>15 those -- do you happen to know how many of those articles</p> <p>16 have five-year or greater follow-up?</p> <p>17 A The first one does. The second one does. The third one</p> <p>18 does. The fourth one does. The fifth one does. The</p> <p>19 sixth one does, has more than ten-year. The seventh one</p> <p>20 has ten-year follow-up. The eighth one has 17-year</p> <p>21 follow-up.</p> <p>22 This one has -- patient population ten years after</p> <p>23 retropubic, so that one has ten-year follow-up. The next</p> <p>24 one -- this is dissatisfaction after ten years, so that's</p> <p>25 ten-year follow-up. The following one has four-year</p>	<p>1 (Exhibit Nos. 12-13 marked for</p> <p>2 identification.)</p> <p>3 EXAMINATION (Continuing)</p> <p>4 BY MR. DEGREEFF:</p> <p>5 Q Doctor, we just took a little break; correct?</p> <p>6 A Correct.</p> <p>7 Q And you had a chance to talk with defense counsel?</p> <p>8 A Very briefly, yes.</p> <p>9 Q After speaking with him, is there -- are there any of</p> <p>10 your answers from prior in the deposition that you want</p> <p>11 to change?</p> <p>12 A No.</p> <p>13 Q Doctor, I'm handing you what has been marked Deposition</p> <p>14 Exhibit 13. Deposition Exhibit 13 is a Baggie full of</p> <p>15 thumb drives. What are those?</p> <p>16 A These were all different documents, articles, and</p> <p>17 possibly in there, because I'm not sure because I didn't</p> <p>18 look at all of them, some of them are on case-specific</p> <p>19 medical records of patients who are in your litigation.</p> <p>20 Q So some of those thumb drives have case-specific</p> <p>21 information on them; some of them have general. Is that</p> <p>22 correct?</p> <p>23 A Yes, I think so.</p> <p>24 Q And that's a lot of thumb drives. Have you reviewed all</p> <p>25 of those?</p>
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<p>1 follow-up. The next one is a five-year study. The next</p> <p>2 one is a five-year study. The next one is a five-year</p> <p>3 prospective follow-up. The following one is a five-year</p> <p>4 follow-up. And the last one is five years also. Oh,</p> <p>5 there's one more. And that is seven years.</p> <p>6 Q How many of those are randomized controlled studies?</p> <p>7 A Oh, I don't know. I'd have to go back and look.</p> <p>8 Q Okay.</p> <p>9 A We could look at Cochrane reviews and kind of get that.</p> <p>10 Q Did you -- well, I'm just asking you. As you were going</p> <p>11 through them, did you note how many were --</p> <p>12 A I wasn't noting that. You tasked me on the number of</p> <p>13 years. But if you'd like, I'll go back and come up with</p> <p>14 that.</p> <p>15 Q Well, let's -- how many are -- did you review those</p> <p>16 articles in rendering your opinions?</p> <p>17 A Yes.</p> <p>18 Q Are you relying on them?</p> <p>19 A Yes.</p> <p>20 Q Okay. All right. Let's move on. Let's see.</p> <p>21 MR. KOOPMANN: Maybe take a two-minute</p> <p>22 break at some point? Is it a good stopping point?</p> <p>23 (Recess from 2:17 p.m. to</p> <p>24 2:31 p.m.)</p> <p>25 ////</p>	<p>1 A I have reviewed all of them, and the one -- I think this</p> <p>2 one here with the orange has my invoices on it.</p> <p>3 Q Okay. So the orange thumb drive has invoices on it.</p> <p>4 A That's my memory, yeah.</p> <p>5 Q Okay. And then are those -- do those thumb drives</p> <p>6 include materials that are additional to all of the</p> <p>7 binders you've been provided?</p> <p>8 A I can't answer that. Because I would -- I would have to</p> <p>9 look at every single one and all the articles. I don't</p> <p>10 know. If I were to give you an opinion, there are</p> <p>11 probably more articles in here than there are in these</p> <p>12 documents.</p> <p>13 Q Okay. And when you say "in here," you're talking about</p> <p>14 the thumb drives?</p> <p>15 A Right. The thumb drives so --</p> <p>16 Q I'm just trying to make the record clear.</p> <p>17 A -- I would rely on the thumb drives and read those</p> <p>18 articles. And these came at a later date, which I assume</p> <p>19 is a compendium of what I've been sent.</p> <p>20 Q When you say "these," you're talking about the binders?</p> <p>21 A Binders.</p> <p>22 Q When were you provided the thumb drives?</p> <p>23 A Oh, over the last probably three months.</p> <p>24 Q So you received those thumb drives beginning roughly</p> <p>25 three months ago?</p>

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<p>1 A That's very rough. Because it's -- I don't have a good</p> <p>2 sense of when I started reviewing them.</p> <p>3 Q It's within the last few months; is that fair to say?</p> <p>4 A Yes, yes.</p> <p>5 Q And those -- did those thumb drives all come from defense</p> <p>6 counsel?</p> <p>7 A Yes.</p> <p>8 Q And did you select any of the articles or documents or</p> <p>9 items that are on those thumb drives?</p> <p>10 A No.</p> <p>11 Q Those were all selected for you by defense counsel?</p> <p>12 A Yes. But many of them I'm familiar with in the past.</p> <p>13 Q Okay. All of the articles that are on those thumb drives</p> <p>14 were selected and placed on those thumb drives by defense</p> <p>15 counsel?</p> <p>16 A Yes.</p> <p>17 Q And as you sit here, are you -- do you believe you've</p> <p>18 reviewed all of the articles that are on those thumb</p> <p>19 drives?</p> <p>20 A I believe I have.</p> <p>21 Q And are you relying on those for your opinions -- your</p> <p>22 general opinions in this litigation?</p> <p>23 A Yes.</p> <p>24 Q Doctor, I'm going to hand you what's been marked as</p> <p>25 Deposition Exhibit 12. That's the CV that was produced</p>	<p>1 A Correct.</p> <p>2 Q And you've never taken the urogynecology boards; correct?</p> <p>3 A Well, I took the review courses for them, but because my</p> <p>4 volume of female pelvic surgery in the last two years has</p> <p>5 decreased because I have other responsibilities in</p> <p>6 general urology and leadership in my hospital system, I</p> <p>7 didn't meet the threshold for numbers to sit for the</p> <p>8 boards, number of -- volume of cases of late.</p> <p>9 Q As you sit here, you have never taken the urogyn boards?</p> <p>10 A Correct.</p> <p>11 Q You're not board certified in urogynecology?</p> <p>12 A Correct.</p> <p>13 Q And what is the threshold number of surgeries to be able</p> <p>14 to sit for the board?</p> <p>15 A They did not give a number. They just review your</p> <p>16 surgical logs.</p> <p>17 Q And what was your number over the last couple years?</p> <p>18 A I don't recall the numbers at all. It was over a year</p> <p>19 ago that -- that I submitted it, about a year and a half,</p> <p>20 maybe two years ago that I submitted it.</p> <p>21 Q Did you have to compile that data?</p> <p>22 A Yes.</p> <p>23 Q And did you do that yourself?</p> <p>24 A My office manager.</p> <p>25 Q Did you review it?</p>
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<p>1 to us, and I think it's the same as Deposition Exhibit 2,</p> <p>2 except that, for some reason, your office address and</p> <p>3 where you were born is redacted.</p> <p>4 A Okay.</p> <p>5 Q Is that correct? Is that a copy of your most recent CV?</p> <p>6 You want to compare it to Exhibit 2?</p> <p>7 A Okay.</p> <p>8 Q In fact, Doctor, don't even worry about it. You can just</p> <p>9 work off of Exhibit 2 if that's easier, since we know</p> <p>10 that's --</p> <p>11 A Sure, sure, sure.</p> <p>12 Q -- a common . . .</p> <p>13 A few questions, Doctor. You are a urologist;</p> <p>14 correct?</p> <p>15 A Correct.</p> <p>16 Q You are not a urogynecologist?</p> <p>17 A Correct.</p> <p>18 Q Are you certified in female pelvic medicine and</p> <p>19 reconstruction surgery?</p> <p>20 A No.</p> <p>21 Q Have you ever done a fellowship related to pelvic floor</p> <p>22 surgery?</p> <p>23 A The fellowships for pelvic floor surgery began well after</p> <p>24 I finished training, so no.</p> <p>25 Q You've never done any fellowship training?</p>	<p>1 A Yes.</p> <p>2 Q Did you submit it to the -- to the --</p> <p>3 A FPRMS, yes.</p> <p>4 Q -- FPRMS?</p> <p>5 And so given that you had that role, you still don't</p> <p>6 remember what that number was?</p> <p>7 A Oh, it was the number of all the surgeries that you've</p> <p>8 done. No, I have no idea what that number is.</p> <p>9 Q All of the surgeries that you've done since when?</p> <p>10 A Well, in a six-month -- in a six-month period, but that's</p> <p>11 all -- that's general urology, female urology,</p> <p>12 whatever -- whatever surgical cases I was doing.</p> <p>13 Q You also treat males as part of your practice; correct?</p> <p>14 A Correct.</p> <p>15 Q What percentage of your practice deals with treating men?</p> <p>16 A Roughly 50 percent.</p> <p>17 Q Are you a member of AUGS?</p> <p>18 A No.</p> <p>19 Q Why not?</p> <p>20 A Well, I'm a urologist, and so the urologic focus for</p> <p>21 female urology is SUFU, society of uro-gynecon- --</p> <p>22 urology and gyne- -- and -- female urology. And I'm a</p> <p>23 member of the AUA, but I'm not a member of AUGS. I have</p> <p>24 gone to several AUGS meetings in the past. The last one</p> <p>25 was this last October.</p>

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<p>1 Q And what does AUGS stand for?</p> <p>2 A American Urogynecology Society. If you want me to give</p> <p>3 you kind of a history of urogynecology, I can.</p> <p>4 Q No, that's okay.</p> <p>5 You've got teaching positions listed on your -- on</p> <p>6 Exhibit 2, which is your CV, on the second page.</p> <p>7 A Yes.</p> <p>8 Q Let's kind of talk about those. The first one is Ethicon</p> <p>9 Endosurgical Institute; correct?</p> <p>10 A Yes.</p> <p>11 Q And that obviously is something that is through Ethicon,</p> <p>12 the defendant in this case; correct?</p> <p>13 A Correct.</p> <p>14 Q How long have you been teaching for Ethicon Endosurgical</p> <p>15 Institute?</p> <p>16 A Well, I started in the '90s, and then probably the last</p> <p>17 course I gave, I don't know the year. 2013 perhaps.</p> <p>18 Q So you were doing that for roughly 15, 16 years?</p> <p>19 A Yes.</p> <p>20 Q And who takes those courses?</p> <p>21 A Urologists and gynecologists take those courses.</p> <p>22 Q And were you paid for those courses -- to give those</p> <p>23 courses?</p> <p>24 A Yes.</p> <p>25 Q And Ethicon paid you for that?</p>	<p>1 Endosurgical Institute cases; correct?</p> <p>2 MR. KOOPMANN: Objection to form.</p> <p>3 THE WITNESS: I don't know if I</p> <p>4 understand what you mean by --</p> <p>5 Q (By Mr. DeGreeff) CME.</p> <p>6 A No CMEs granted, correct.</p> <p>7 Q Ethicon Endosurgical Institute's not affiliated with any</p> <p>8 college or institution, is it?</p> <p>9 A They have funding grants with multiple medical schools,</p> <p>10 institutions.</p> <p>11 Q Meaning Ethicon gives money to the institutions?</p> <p>12 A To several institutions. I couldn't give you a list. I</p> <p>13 just know Stanford is one of them.</p> <p>14 Q No college students or students doing their rotations or</p> <p>15 any other medical student comes to Ethicon Endosurgical</p> <p>16 Institute and receives credit for it, do they?</p> <p>17 A Well, they participate. They don't receive credit,</p> <p>18 though. Multiple residents have attended courses that I</p> <p>19 have given and sent by their -- their department heads to</p> <p>20 attend.</p> <p>21 But they're already -- when you're a resident,</p> <p>22 you're already in CME, so it's just another course for</p> <p>23 them to take. They -- residents don't -- aren't granted</p> <p>24 CME. They don't need it because everything they're doing</p> <p>25 is CME.</p>
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<p>1 A Yes.</p> <p>2 Q And was that done under a contract with Ethicon?</p> <p>3 A Yes.</p> <p>4 Q Would that be --</p> <p>5 A Annual contracts.</p> <p>6 Q It would be a one-year rolling contract?</p> <p>7 A Uh-huh.</p> <p>8 Q And was that -- was that pursuant to what I've seen</p> <p>9 called as the consulting agreement?</p> <p>10 A Yes.</p> <p>11 Q And that's not a course that's taught for any college?</p> <p>12 A No, no. But over the years, I have taught courses at</p> <p>13 medical schools, in medical schools, and have taught</p> <p>14 urologists who are academics how to do these procedures.</p> <p>15 Q And there's no continuing education given for taking an</p> <p>16 Ethicon Endosurgical Institute course, is there?</p> <p>17 A No. And the reason being is that they don't charge the</p> <p>18 participants to go to the courses, so that because</p> <p>19 they're -- because they're there without a tuition, they</p> <p>20 don't -- they're not allowed to grant CME. Because, to</p> <p>21 grant CME, it has to go through a national body that</p> <p>22 credentials.</p> <p>23 Q The question was a little different than that, a little</p> <p>24 more simple than that.</p> <p>25 There's no continuing education given for Ethicon</p>	<p>1 Q Other than Ethicon giving money to colleges, is there any</p> <p>2 other affiliation between the Ethicon Endosurgical</p> <p>3 Institute and any colleges, medical colleges?</p> <p>4 A Not that I'm aware. I don't know. I don't keep up with</p> <p>5 it.</p> <p>6 Q You also have on here, under teaching positions, Gynecare</p> <p>7 national preceptor. What's that?</p> <p>8 A Well, that was -- there's different levels of faculty.</p> <p>9 There's kind of local preceptors who might attend a</p> <p>10 surgery and proctor, and then there are those who would</p> <p>11 go regionally, and then there are those who they would</p> <p>12 rely on for the entire country.</p> <p>13 Q And again, that was something that you did under a</p> <p>14 consulting agreement with Ethicon; correct?</p> <p>15 A Yes.</p> <p>16 Q And you were paid for that?</p> <p>17 A Yes.</p> <p>18 Q And you were paid by Ethicon for that?</p> <p>19 A Yes.</p> <p>20 Q And what is a preceptor?</p> <p>21 A A preceptor is a physician who will teach other</p> <p>22 physicians surgical techniques.</p> <p>23 Q Doctor, you've been an advocate of Ethicon products for a</p> <p>24 number of years, haven't you?</p> <p>25 A I use the products, yes. I'm -- you use the term -- do I</p>

22 (Pages 82 to 85)

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<p>1 have a positive impression of the company? Yes.</p> <p>2 Q And, Doctor, when did you begin working for Ethicon? I</p> <p>3 believe it was 1998, but correct me if I'm wrong.</p> <p>4 A That's approximate. It was teaching a prostate laser</p> <p>5 surgery.</p> <p>6 Q Okay. Yeah, and from -- I believe from 1998 to 2002, you</p> <p>7 were working for them as a preceptor for a urologic</p> <p>8 device; correct?</p> <p>9 A Correct.</p> <p>10 Q And what was that device?</p> <p>11 A The Indigo laser.</p> <p>12 Q And were you doing that under consulting agreements with</p> <p>13 the company?</p> <p>14 A Yes.</p> <p>15 Q Do you happen to have a copy of those consulting</p> <p>16 agreements?</p> <p>17 A No.</p> <p>18 Q Do you know what you were being paid under those</p> <p>19 consulting agreements?</p> <p>20 A Cannot remember.</p> <p>21 Q We'll come back to that.</p> <p>22 What is the -- and then, Doctor, your third teaching</p> <p>23 position is Seattle Prostate Institute, faculty</p> <p>24 instructor.</p> <p>25 What's that?</p>	<p>1 stopped teaching it.</p> <p>2 Q So was that even -- was the Ethicon Endosurgical</p> <p>3 Institute, was that even related to transvaginal mesh in</p> <p>4 any way?</p> <p>5 A No.</p> <p>6 Q So is it -- so you don't have any current teaching</p> <p>7 positions; correct?</p> <p>8 A Correct.</p> <p>9 Q The last one was three or four years ago?</p> <p>10 A Correct.</p> <p>11 Q And at least two of the three teaching positions you've</p> <p>12 held were -- you were paid by medical -- you were paid by</p> <p>13 Ethicon?</p> <p>14 A Yes.</p> <p>15 Q Doctor, what constitutes a recent medical publication?</p> <p>16 A That's a very good question. That's a hard thing to say.</p> <p>17 Certainly anything within five years is recent. Within</p> <p>18 ten years is relevant.</p> <p>19 Q What about 15 years?</p> <p>20 A It can be very relevant.</p> <p>21 Q We wouldn't call 15 years ago recent, would we?</p> <p>22 A No.</p> <p>23 Q A lot can happen in medicine in a decade and a half;</p> <p>24 right?</p> <p>25 A Yes, sure.</p>
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<p>1 A Well, that is a group of radiation oncologists and</p> <p>2 urologists who -- and we no longer -- it's no longer</p> <p>3 active, but I'll -- we taught prostate brachytherapy.</p> <p>4 It's a treatment for prostate cancer.</p> <p>5 Q And that has nothing to do with transvaginal mesh; fair?</p> <p>6 A Not at all.</p> <p>7 Q And was that also in some way sponsored by a</p> <p>8 pharmaceutical company or medical device company?</p> <p>9 A Not to my awareness. The -- I would be paid by the</p> <p>10 Seattle Prostate Institute. I have no idea who their</p> <p>11 sponsors were. I never was interested.</p> <p>12 Q And when did that cease to exist?</p> <p>13 A That's a good question. Probably 2008, '07, something in</p> <p>14 that range.</p> <p>15 Q Okay. So it's been seven or eight years?</p> <p>16 A Right.</p> <p>17 Q And when were you last a Gynecare national preceptor?</p> <p>18 A It's terrible that I don't remember, but it's got to be</p> <p>19 three, four years ago.</p> <p>20 Q And when were you last a -- working at the Ethicon</p> <p>21 Endosurgical Institute?</p> <p>22 A That was probably 2002.</p> <p>23 Q 2002?</p> <p>24 A Yeah. I -- it's so long ago, I can't remember. It's --</p> <p>25 for the Indigo laser, I just don't remember when I</p>	<p>1 Q Under your recent publications, neither one of those two</p> <p>2 publications, one in 2001, one in 2007, are related to</p> <p>3 transvaginal mesh; correct?</p> <p>4 A Correct.</p> <p>5 Q And then the next section you've got is completed</p> <p>6 research.</p> <p>7 Do you see that?</p> <p>8 A Yes.</p> <p>9 Q Doctor, of those five you've got listed, none of those</p> <p>10 were published; is that right?</p> <p>11 A The -- well, I only have four on my sheet, and the fourth</p> <p>12 one was published.</p> <p>13 Q Which one --</p> <p>14 A TVT Worldwide Observational Registry.</p> <p>15 Q Do you not have the safety and efficacy of the TVT-O</p> <p>16 pubovaginal sling?</p> <p>17 A No, I don't. Oh. It's on -- it's on one of them, not</p> <p>18 the other. I took it off because really that -- that was</p> <p>19 the kind of precursor to the TVT World Registry. I think</p> <p>20 those -- those patient cohorts were just rolled into the</p> <p>21 fifth one on there.</p> <p>22 Q Okay. So the --</p> <p>23 A That's why on this CV it doesn't have that.</p> <p>24 Q So 2 is more up to date than -- is your CV in Exhibit 2</p> <p>25 more up to date than Exhibit 12?</p>

23 (Pages 86 to 89)

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<p>1 A Yes.</p> <p>2 Q Okay. And that one does not have, under completed</p> <p>3 research, the study titled "Safety and Efficacy of the</p> <p>4 TVT-O Pubovaginal Sling - Ongoing"?</p> <p>5 A Right.</p> <p>6 Q And that's because that was rolled into the TVT World</p> <p>7 Registry; is that fair?</p> <p>8 A That's before it got a title, yes.</p> <p>9 Q Okay.</p> <p>10 A I didn't eliminate it from there. I added it on, but</p> <p>11 didn't eliminate number four.</p> <p>12 Q Now, was the TVT World Registry that you referenced, was</p> <p>13 it published in an article or an abstract?</p> <p>14 A It was an article, one of these reliance lists.</p> <p>15 Q Was that peer-reviewed?</p> <p>16 A Journal of Urology. Yes.</p> <p>17 Q And when was it published?</p> <p>18 A I want to say 2014. Do you want me to look for it?</p> <p>19 Q No, that's okay. I figure -- 2014's close enough.</p> <p>20 And you got paid as part of your work on that TVT</p> <p>21 World Registry; correct?</p> <p>22 A Yes.</p> <p>23 Q And you were paid by Ethicon?</p> <p>24 A Yes.</p> <p>25 Q And were there others who helped author that --</p>	<p>1 THE WITNESS: You would have to ask</p> <p>2 Ethicon the reasons for them pulling it off the market</p> <p>3 because it wasn't my decision and I wasn't at all</p> <p>4 involved in that decision.</p> <p>5 Q (By Mr. DeGreeff) Ethicon never consulted you about</p> <p>6 whether you thought the TVT-Secur was safe?</p> <p>7 A They certainly did when I was using it and when I was</p> <p>8 teaching it.</p> <p>9 Q They never contacted you to see what you thought before</p> <p>10 they took it off the market?</p> <p>11 A No.</p> <p>12 Q The TVT World Registry was cut short; correct?</p> <p>13 A Well, it -- it -- I don't know if you say cut short. It</p> <p>14 was published at the one-year mark, and the decision was</p> <p>15 not to go further -- to follow the patients further,</p> <p>16 right.</p> <p>17 Q Initially, it was supposed to go further; correct?</p> <p>18 A I think it was two years initially, yes.</p> <p>19 Q Why was it stopped prematurely?</p> <p>20 A One, I don't know. I was never consulted as to the</p> <p>21 decision-making on that. So whatever I tell you would be</p> <p>22 just a predicate, or I wouldn't -- I mean, I don't have</p> <p>23 an answer as to why.</p> <p>24 Q Nobody ever told you, when they cut short a study that</p> <p>25 you were working on, why they were cutting it short?</p>
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<p>1 A Oh, yes.</p> <p>2 Q -- publication?</p> <p>3 And were all of them paid by Ethicon?</p> <p>4 A I assume they were.</p> <p>5 Q Were many of them involved as expert -- are many of them</p> <p>6 involved as experts for Ethicon in this litigation?</p> <p>7 A I don't think anyone on the list is, the authors. It was</p> <p>8 international, so there were multiple, South Africa,</p> <p>9 Italy, England.</p> <p>10 Q And the ultimate conclusion for the authors who were paid</p> <p>11 by Ethicon was that the TVT-Secur was safe; correct?</p> <p>12 A Yes.</p> <p>13 Q And you ultimately taught other doctors that the TVT-S</p> <p>14 was safe; correct?</p> <p>15 A Yes. I still believe it's safe.</p> <p>16 Q Okay. That was the next question. Do you still believe</p> <p>17 the TVT-Secur is safe?</p> <p>18 A Yes.</p> <p>19 Q And the TVT-Secur has been pulled off the market;</p> <p>20 correct?</p> <p>21 A Yes.</p> <p>22 Q And I believe it was your testimony earlier that Ethicon</p> <p>23 pulled the TVT-Secur off the market instead of spending</p> <p>24 the money to see whether it was safe or not?</p> <p>25 MR. KOOPMANN: Objection. Form.</p>	<p>1 A Correct.</p> <p>2 Q Who made the decision to cut it short?</p> <p>3 A I don't know.</p> <p>4 Q Well, Ethicon ultimately is the one who made the decision</p> <p>5 to cut the study short; correct?</p> <p>6 MR. KOOPMANN: Objection to form.</p> <p>7 THE WITNESS: I mean, if you say so.</p> <p>8 I don't know. The lead author -- I don't -- it could</p> <p>9 have been the lead author who made the decision.</p> <p>10 Q (By Mr. DeGreeff) What do you believe, personally, is</p> <p>11 the reason that it was cut short?</p> <p>12 A Well, they're funding a study. I don't remember the</p> <p>13 chronology of it, whether or not they had made a decision</p> <p>14 to withdraw the product. So why would you do an ongoing</p> <p>15 study on a product that no longer is available? Because</p> <p>16 it wouldn't necessarily be relevant at that point.</p> <p>17 Q So what you're saying is, you believe it was cut short</p> <p>18 because it was withdrawn from the market?</p> <p>19 MR. KOOPMANN: Objection to form.</p> <p>20 THE WITNESS: I don't know. You're</p> <p>21 asking me to speculate.</p> <p>22 Q (By Mr. DeGreeff) I'm just asking your opinion.</p> <p>23 A I don't know.</p> <p>24 Q Looking at -- on the completed research list on your CV</p> <p>25 in Exhibit 2 -- let's see, the first one, Protocol No. 8,</p>

24 (Pages 90 to 93)

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<p>1 a multicenter trial of induction, that doesn't have</p> <p>2 anything to do with transvaginal mesh; correct?</p> <p>3 A Correct.</p> <p>4 Q And then No. 3, implantation of pelvic self-contained</p> <p>5 neuromodulator for the treatment of refractory urge</p> <p>6 incontinence, that has nothing to do with TVM either;</p> <p>7 correct?</p> <p>8 A Correct.</p> <p>9 Q So looking at No. 2, which is Protocol No. 2001-12,</p> <p>10 clinical assessments of patients undergoing Gynecare TVT</p> <p>11 with abdominal guides for the treatment of stress urinary</p> <p>12 incontinence -- did I read that correctly?</p> <p>13 A Yes.</p> <p>14 Q And what was that study about?</p> <p>15 A That study was the introduction of retropubic TVT being</p> <p>16 placed, instead of bottom up, top down. And the reason</p> <p>17 for that was, in the initial introduction of the</p> <p>18 retropubic TVT to the U.S., urologists were used to doing</p> <p>19 needle suspensions from top down, and this was a -- a</p> <p>20 vaginally placed sling. The trocars would go from bottom</p> <p>21 up, and a lot of urologists were uncomfortable going in</p> <p>22 that direction.</p> <p>23 So the company came up with the idea of using</p> <p>24 abdominal guides -- when I say the "company," it was</p> <p>25 probably one of the physicians who worked with -- one of</p>	<p>1 your opinions in this litigation?</p> <p>2 A Correct. It's the same mesh. It's the same procedure.</p> <p>3 Just a different approach.</p> <p>4 Q It's not exactly the same procedure when you're going</p> <p>5 abdominally rather than vaginally; right?</p> <p>6 A Well, it's the exact same sling. It's just put in the</p> <p>7 way the SPARC was put in, a different product.</p> <p>8 Q Let me make this easier. It pertains to the mesh, but</p> <p>9 it's really about -- I mean, the mesh is being inserted,</p> <p>10 but this article is really about the abdominal approach;</p> <p>11 right?</p> <p>12 A Yes.</p> <p>13 Q And you're not giving any opinions about the abdominal</p> <p>14 approach?</p> <p>15 A No.</p> <p>16 Q I think we agree. You're not giving opinions about the</p> <p>17 abdominal approach; correct?</p> <p>18 A I haven't been asked any opinions about it.</p> <p>19 Q Okay. There you go.</p> <p>20 Do you anticipate giving any of those opinions at</p> <p>21 trial?</p> <p>22 A No, I don't.</p> <p>23 Q How much total time did you spend drafting your report?</p> <p>24 A Which report?</p> <p>25 MR. DEGREEFF: Good point. Let's mark</p>
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<p>1 my colleagues.</p> <p>2 And so we were doing a trial of passing trocars</p> <p>3 from -- or needles from top down, and then bringing the</p> <p>4 retropubic TVT up as a way of modifying the device so</p> <p>5 that those who were more comfortable with an anterior</p> <p>6 approach would use -- would use the sling.</p> <p>7 Q And that was done in 2001?</p> <p>8 A That's my memory, yes.</p> <p>9 Q And that was never published; fair?</p> <p>10 A Yes.</p> <p>11 Q So it was never peer reviewed?</p> <p>12 A Not that I'm aware of that it was published, correct.</p> <p>13 Q And you're not offering any opinions in this litigation</p> <p>14 concerning the TVT abdominal approach, are you?</p> <p>15 A I'm not -- I'm not offering any opinions about it. I</p> <p>16 don't do that procedure. I didn't find that it was</p> <p>17 superior to bottom up.</p> <p>18 Q That was my next question. You never -- did you ever use</p> <p>19 the abdominal approach?</p> <p>20 A Yes. I did several patients using it.</p> <p>21 Q Do you currently use it?</p> <p>22 A No.</p> <p>23 Q When did you stop using it?</p> <p>24 A After the study was complete.</p> <p>25 Q Fair to say, that article is not particularly relevant to</p>	<p>1 them. That's a fair question, Doctor.</p> <p>2 (Exhibit Nos. 14-15 marked for</p> <p>3 identification.)</p> <p>4 Q (By Mr. DeGreeff) All right, Doctor. I'm handing you</p> <p>5 what's been marked as Deposition Exhibits 14 and 15, I</p> <p>6 believe.</p> <p>7 Can you tell me what Deposition Exhibit 14 is?</p> <p>8 A "Report Re TVT and TVT-O Midurethral Slings."</p> <p>9 Q And that is the report that you've submitted in this case</p> <p>10 regarding the TVT-R and TVT-O; correct?</p> <p>11 A Yes.</p> <p>12 Q And what is marked as Deposition Exhibit 15?</p> <p>13 A That is "Report Re TVT-Secur Midurethral Slings."</p> <p>14 Q And that's your report in this case concerning the TVT-S;</p> <p>15 correct?</p> <p>16 A Yes.</p> <p>17 Q How much total time did you spend drafting the TVT-R,</p> <p>18 TVT-O report?</p> <p>19 A Well, I mean, I never looked at it in those terms, but</p> <p>20 I'm sure 20 hours.</p> <p>21 Q Actually writing it?</p> <p>22 A Oh, God, yeah.</p> <p>23 Q Because you said you spent 100 hours overall with review</p> <p>24 of materials and drafting of the report; correct?</p> <p>25 A Correct.</p>

25 (Pages 94 to 97)

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<p>1 Q And what about the TVT-S report? How much time would you</p> <p>2 say you spent drafting the TVT-S report?</p> <p>3 A I would say similar, 20 hours.</p> <p>4 Q So you spent 20 hours drafting each of those two reports,</p> <p>5 despite the fact that the TVT-S report is largely</p> <p>6 duplicative of the TVT-O and TVT-R report?</p> <p>7 A Well, what -- to write the report, I had to read the</p> <p>8 articles that were available for Secur, go to reference</p> <p>9 different textbooks and articles on the subject, and then</p> <p>10 start writing.</p> <p>11 Q That was my next question. Does that 20 hours include</p> <p>12 review of materials?</p> <p>13 A Well, yes and no. It -- certainly I would review back to</p> <p>14 materials while I was writing it, but most of the</p> <p>15 materials, I've already read. So I'm not including those</p> <p>16 hours of the previously read articles and text.</p> <p>17 Q So I guess my question is, does the 100 hours include the</p> <p>18 TVT -- TVT-O, TVT-R report, the TVT-S report, and the</p> <p>19 other reports that you've given -- the other general</p> <p>20 reports and specific reports you've -- case-specific</p> <p>21 reports you've given in this litigation?</p> <p>22 A Well --</p> <p>23 MR. KOOPMANN: Objection to form.</p> <p>24 THE WITNESS: I have not kept track of</p> <p>25 how many hours I've -- I've submitted or I -- or I used.</p>	<p>1 A I did four surgeries this morning.</p> <p>2 Q Okay. What did you do to prepare for your deposition</p> <p>3 today?</p> <p>4 A Today? I tried to read my reports, and I spent most of</p> <p>5 the time just trying to gather the information, and</p> <p>6 unfortunately, I spent a lot of time -- because I was</p> <p>7 instructed to download invoices and -- onto thumb</p> <p>8 drives -- trying to collect what was on that request</p> <p>9 list.</p> <p>10 Q So how much time did you spend preparing for your</p> <p>11 deposition?</p> <p>12 A For this today?</p> <p>13 Q Yeah.</p> <p>14 A Oh, my. Four hours, if that.</p> <p>15 Q Did you meet with defense counsel?</p> <p>16 A Briefly last night. We had dinner.</p> <p>17 Q Where did you go?</p> <p>18 A A place called --</p> <p>19 MR. KOOPMANN: Objection. Form.</p> <p>20 THE WITNESS: A restaurant called</p> <p>21 Scott's.</p> <p>22 Q (By Mr. DeGreeff) What kind of food?</p> <p>23 A Well, seafood mainly.</p> <p>24 Q How long was that dinner?</p> <p>25 A I think it was from -- about an hour and a half to two</p>
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<p>1 It's a lot of hours, but not all the hours do I charge</p> <p>2 for.</p> <p>3 Q (By Mr. DeGreeff) So you don't bill for all of your time</p> <p>4 spent writing your reports?</p> <p>5 A That's right.</p> <p>6 Q So whatever number is on your -- is on your bills, you</p> <p>7 expect you've actually spent more time than that?</p> <p>8 A Most likely, yes.</p> <p>9 Q How much more time?</p> <p>10 A Oh, if I were to estimate, maybe 25 percent more.</p> <p>11 Q Why would you not bill for your time when you're using</p> <p>12 your free time to write reports for a company?</p> <p>13 A Well, if I get a break between patients, I will read an</p> <p>14 article or I will start writing and then stop, and so</p> <p>15 that may happen a couple times in a day, ten times in a</p> <p>16 week, and I just -- then at the end of the -- you know,</p> <p>17 on a Sunday I'll try to say -- come up with the number of</p> <p>18 hours. If I have a block time, then I know how many</p> <p>19 hours, but I estimate it, and I underestimate it.</p> <p>20 Q Okay. Do we have any way that we can track those hours</p> <p>21 that you believe you've spent that aren't billed for?</p> <p>22 A We could call my wife.</p> <p>23 Q All right. We'll do that on a break.</p> <p>24 A Okay. She would say it's far more than 100 hours.</p> <p>25 Q Okay. Doctor, did you take patients this morning?</p>	<p>1 hours.</p> <p>2 Q Who went with you?</p> <p>3 A These two attorneys.</p> <p>4 Q That would be Mr. Koopmann, defense counsel?</p> <p>5 A Yes.</p> <p>6 Q And -- sorry --</p> <p>7 MS. GIVEN: Given, Ms. Given.</p> <p>8 Q (By Mr. DeGreeff) Ms. Given.</p> <p>9 Did you have any telephone meetings to prepare for</p> <p>10 your deposition prior to that meeting?</p> <p>11 A I don't think any telephone. Just usually just kind of</p> <p>12 a -- I may get an email saying, we need to work on the</p> <p>13 specific reports for next week. All I've been</p> <p>14 concentrating on is all these case-specific reports</p> <p>15 because that was a very short timeline.</p> <p>16 So I've dropped all of this since that kind of</p> <p>17 notification, which was within the last month. So I've</p> <p>18 done very little in terms of the general. I've done most</p> <p>19 of my work all on the case specifics.</p> <p>20 Q So you did all of your case-specific reviews and opinions</p> <p>21 within a month?</p> <p>22 A Yes.</p> <p>23 Q While doing a full-time medical practice?</p> <p>24 A Yes.</p> <p>25 Q How many case-specific reports did you do?</p>

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<p>1 A Four or five. Five, I think.</p> <p>2 Q Are you seeing patients tomorrow morning?</p> <p>3 A I'm doing surgery tomorrow morning, yes.</p> <p>4 Q Are you intending to meet with defense counsel tomorrow</p> <p>5 morning --</p> <p>6 A No.</p> <p>7 Q -- do you have anything scheduled?</p> <p>8 A No. Nor tonight.</p> <p>9 Q Did you review any documents in preparation for your</p> <p>10 deposition? You said you reviewed your reports.</p> <p>11 Anything else?</p> <p>12 A Just what you have in front of you.</p> <p>13 Q You reviewed all of these binders we've got in front of</p> <p>14 us?</p> <p>15 A No. I reviewed several articles, kind of -- especially</p> <p>16 the ones that aren't in the binders.</p> <p>17 Q The Exhibit 4?</p> <p>18 A Yes.</p> <p>19 Q Okay. We discussed those earlier. Probably no reason to</p> <p>20 discuss them again. You reviewed those in preparation</p> <p>21 for your deposition?</p> <p>22 A Yes.</p> <p>23 Q Anything caught your eye in them?</p> <p>24 A No. I'm not sure what you mean by catch my eye.</p> <p>25 Q How did you decide on these articles as the ones to</p>	<p>1 intermediate term, the studies, you know, the chronology</p> <p>2 of studies.</p> <p>3 Q Gotcha.</p> <p>4 Doctor, you've been an expert witness before for</p> <p>5 Ethicon in the Perry matter; correct?</p> <p>6 A Yes, yes.</p> <p>7 Q And you actually gave a deposition in that case and</p> <p>8 appeared in trial; correct?</p> <p>9 A Yes.</p> <p>10 Q How many -- how much did you get paid in total for your</p> <p>11 work on the Perry trial?</p> <p>12 MR. KOOPMANN: Objection. Form.</p> <p>13 Q (By Mr. DeGreeff) Excuse me. The Perry matter.</p> <p>14 A I don't know. And the reason I don't know is because I</p> <p>15 never got my 1099 for last year. So I submit them, and</p> <p>16 I -- quite frankly, it's -- you could call it a character</p> <p>17 flaw, but I don't collect and look at what the cumulative</p> <p>18 number is. So that's why I was going to rely on the --</p> <p>19 to find out, and I just -- I have not been able to</p> <p>20 receive the --</p> <p>21 Q Well, do you have a standard appearance fee for showing</p> <p>22 up at trial?</p> <p>23 A It's the same. It's \$500 an hour for both.</p> <p>24 Q Where did the Perry trial occur?</p> <p>25 A Bakersfield, California.</p>
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<p>1 review?</p> <p>2 A Well, I think the most relevant are the more long-term</p> <p>3 articles or ones that compared, say, Secur to other</p> <p>4 slings or to Burches, the other types of procedures that</p> <p>5 are out there.</p> <p>6 Trying to get articles that kind of compared all the</p> <p>7 different techniques, so it kind of gives you a</p> <p>8 generalized view of how these particular devices fit with</p> <p>9 other ones that are employed to treat stress</p> <p>10 incontinence, pelvic floor prolapse.</p> <p>11 Q The only study that had a follow-up greater than five</p> <p>12 years only compared Ethicon products to each other;</p> <p>13 correct?</p> <p>14 A Well, there was the one study that had some longer-term</p> <p>15 data in this that compared everything, including Burches,</p> <p>16 and it just looked at adverse events versus efficacy.</p> <p>17 But I will have to tell you, when we meet as a</p> <p>18 group --</p> <p>19 Q I'm going to stop you right there. There's no question</p> <p>20 pending, Doctor.</p> <p>21 A Okay.</p> <p>22 Q And I don't know whether that would -- whether I would</p> <p>23 have liked that answer or not, but there's no question</p> <p>24 pending, so --</p> <p>25 A Well, it had to do with just short-, long-term,</p>	<p>1 Q How many days did you spend in Bakersfield, California?</p> <p>2 A Three -- two and a half days on the -- in trial and I got</p> <p>3 there the day before.</p> <p>4 Q And how many hours do you bill for in a day when you're</p> <p>5 there for a full day for trial?</p> <p>6 A How many hours I was actually working, whatever that</p> <p>7 would be. It would be -- if we started at 9:00 a.m. -- I</p> <p>8 think trials were pretty much around 9:00, maybe it was</p> <p>9 even -- well, 9:00. And then if we ended at 4:30,</p> <p>10 whatever the difference is, four plus three is seven.</p> <p>11 Q Fair to say that, in the Perry trial, you got paid over</p> <p>12 \$50,000 -- I mean, for the Perry matter, you got paid</p> <p>13 over \$50,000?</p> <p>14 A That's probably a fair assumption, yes.</p> <p>15 Q Do you think you got paid over 75,000?</p> <p>16 A I wish I could tell you. I apologize that I don't have</p> <p>17 that number.</p> <p>18 Q Have you ever been an expert in any other matters, any</p> <p>19 other litigation, I guess?</p> <p>20 A I was just retained for a case in Oregon that's unrelated</p> <p>21 to pelvic mesh.</p> <p>22 Q What is it related to?</p> <p>23 A Related to a surgical misadventure performing</p> <p>24 ureteroscopy.</p> <p>25 Q So it's a medical malpractice case?</p>

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<p>1 A Yes.</p> <p>2 Q Are you an expert on behalf of the plaintiff or the</p> <p>3 defense?</p> <p>4 A The defense. The hospital.</p> <p>5 Q Were you an expert in a case in Nevada?</p> <p>6 A Not that I'm aware of.</p> <p>7 Q You don't remember being an expert in a case in Nevada?</p> <p>8 A In New Mexico, maybe.</p> <p>9 Q Okay. So you remember a New Mexico case?</p> <p>10 A Well, it's a -- it's the Jasso case, and it was deferred,</p> <p>11 so I did -- I did opinions on that and some preparation.</p> <p>12 Q What kind of case was that?</p> <p>13 A That was a pelvic mesh case. I'm trying to remember --</p> <p>14 there have been so many recently. It was a -- I can't</p> <p>15 remember. It was an anterior colporrhaphy with mesh and</p> <p>16 perhaps a sling.</p> <p>17 Q Was that a Prosima case?</p> <p>18 A Ah, I think it might have been Prosima, yes.</p> <p>19 Q And were you paid by Ethicon in that case also?</p> <p>20 A Yes.</p> <p>21 Q And you were paid by Ethicon in the Perry case?</p> <p>22 A Perry, yes.</p> <p>23 Q How much did you get paid in the Jasso Prosima case?</p> <p>24 A I don't know.</p> <p>25 Q More or less than \$50,000?</p>	<p>1 I'm working on at that moment in time.</p> <p>2 Q When did you start acting as an expert for Ethicon in the</p> <p>3 transvaginal mesh litigation?</p> <p>4 A Probably November of 2014.</p> <p>5 Q November of 2014?</p> <p>6 A Yeah, I think so.</p> <p>7 Q And then you gave opinions in trial in January of 2015 at</p> <p>8 the Perry trial?</p> <p>9 A February is my memory.</p> <p>10 Q February of 2015?</p> <p>11 A Uh-huh.</p> <p>12 Q Okay. Since November of 2014, how much have you been</p> <p>13 paid by Ethicon as a litigation expert for the defense?</p> <p>14 A I don't have the number.</p> <p>15 Q Well, between Perry and what we've already talked about</p> <p>16 in this one, we know it's over 100,000; right?</p> <p>17 A I would say it's probably close to, but I don't know if</p> <p>18 it's over.</p> <p>19 Q Well, you've done 100 hours at \$500 an hour in this</p> <p>20 case -- I mean, in this litigation that we're talking</p> <p>21 about right now.</p> <p>22 A And then probably, some, I don't know, 50 or 60 hours in</p> <p>23 the Perry.</p> <p>24 Q Well, you told me earlier that you thought it was fair to</p> <p>25 assume that you'd been paid \$50,000 in the Perry matter.</p>
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<p>1 A I'm sure less.</p> <p>2 Q More or less than \$25,000?</p> <p>3 A I would think less than \$25,000, but I don't know.</p> <p>4 MR. KOOPMANN: Counsel, just for the</p> <p>5 record, that's an ongoing case. It's not a concluded</p> <p>6 one.</p> <p>7 MR. DEGREEFF: Well, it's not part of</p> <p>8 the Wave 1 litigation, is it?</p> <p>9 MR. KOOPMANN: Right.</p> <p>10 THE WITNESS: It was kind of intensive</p> <p>11 for a short period of time, and then I haven't touched</p> <p>12 anything with that for six months at least.</p> <p>13 Q (By Mr. DeGreeff) So does \$25,000 sound -- I'm just</p> <p>14 trying to figure out if you think it's more or less than</p> <p>15 that for what you've been paid so far in that ongoing</p> <p>16 case?</p> <p>17 A It would be speculation on my part. I don't know.</p> <p>18 Q As you sit here in an ongoing case, that you worked on as</p> <p>19 recently as six months ago --</p> <p>20 A Uh-huh.</p> <p>21 Q -- you don't know how much you've been paid?</p> <p>22 A No. And the reason being is that there's different cases</p> <p>23 that I'm -- that I'm representing, and so I would have to</p> <p>24 have memory to kind of quantify what was each different</p> <p>25 allocation. I don't look at it in terms of which -- what</p>	<p>1 A Well, I -- I don't -- I can research it. Once I get my</p> <p>2 1099, I can tell you, but I can't split it out in terms</p> <p>3 of each case because there's other cases that I have</p> <p>4 worked on. So -- so I just know what the -- I don't even</p> <p>5 know what the hours are, but we downloaded the invoices,</p> <p>6 so you could probably count that up.</p> <p>7 Q Okay. Yeah, I will. I guess my bigger question is the</p> <p>8 Perry matter, and we've talked about that.</p> <p>9 When were you first contacted by Ethicon to act as</p> <p>10 an expert for them?</p> <p>11 A Well, I wasn't contacted by Ethicon at all. I was</p> <p>12 contacted by Butler Snow.</p> <p>13 Q When were you first contacted by their attorneys?</p> <p>14 A I want to say November of 2014.</p> <p>15 Q And how did they -- I mean no disrespect, but why you?</p> <p>16 Why are you the person who's here giving these opinions?</p> <p>17 A Well, that was the question that I asked the attorney who</p> <p>18 called me, and the answer was that I had legacy with</p> <p>19 teaching these products, and they had gotten the name --</p> <p>20 my name from other physicians around the country.</p> <p>21 Q So part of the reason is that, you know, you've been</p> <p>22 working for and paid by the company for 15 to 16 years;</p> <p>23 is that right?</p> <p>24 MR. KOOPMANN: Objection. Form.</p> <p>25 THE WITNESS: I have no idea if -- I</p>

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<p>1 don't think that's the reason because it wasn't the</p> <p>2 company that contacted me.</p> <p>3 Q (By Mr. DeGreeff) Well, you were -- you understand that</p> <p>4 you are giving your opinions on behalf of Ethicon;</p> <p>5 correct?</p> <p>6 A Yes.</p> <p>7 Q Okay.</p> <p>8 A But I'm giving my opinions. In other words, if there was</p> <p>9 not litigation, I would have the same opinions.</p> <p>10 Q Okay. So I guess what I'm saying is, you just told me</p> <p>11 that you were contacted partially because of your legacy</p> <p>12 with the company?</p> <p>13 A I'm presuming that's the reason. I was never told</p> <p>14 exactly why, other than they -- I was contacted because I</p> <p>15 was recommended by other physicians who were doing work</p> <p>16 for this law firm.</p> <p>17 Q Doctor, when I asked you a minute ago, your exact</p> <p>18 response was, that's the question I asked --</p> <p>19 A Well --</p> <p>20 Q -- and I was told by them that it was because I had a</p> <p>21 legacy working with the company, and --</p> <p>22 A I said I presumed that was why.</p> <p>23 Q No, you didn't say you presumed, Doctor. We can read the</p> <p>24 answer back.</p> <p>25 A Well, I presumed the reason why. I was never told that.</p>	<p>1 them no?</p> <p>2 A I've never been asked by Ethicon to do anything other</p> <p>3 than give what my opinions are. They --</p> <p>4 Q Doctor, you understand that the attorneys are acting on</p> <p>5 behalf of Ethicon --</p> <p>6 A Okay.</p> <p>7 Q -- correct?</p> <p>8 So when you agree -- you're not agreeing to work for</p> <p>9 an attorney. You're agreeing to work for Ethicon when</p> <p>10 you accept your responsibility as an expert witness.</p> <p>11 You understand that?</p> <p>12 A Okay. So --</p> <p>13 MR. KOOPMANN: Objection to form.</p> <p>14 Q (By Mr. DeGreeff) So have you ever been approached by</p> <p>15 the attorneys who represent Ethicon, and who you are</p> <p>16 giving opinions on behalf of, to give an opinion on</p> <p>17 behalf of Ethicon, where you said no?</p> <p>18 MR. KOOPMANN: Objection. Form.</p> <p>19 THE WITNESS: I don't recall ever</p> <p>20 being asked to give an opinion. In the first place, I</p> <p>21 give opinions. There's never been something that they've</p> <p>22 said, "We would like you to say this," and I've refused</p> <p>23 to, but there was nothing that they ever said what I'm</p> <p>24 supposed to say. I'm not a puppet.</p> <p>25 Q (By Mr. DeGreeff) You seem pretty concerned about being</p>
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<p>1 I was simply told that I was referred by other</p> <p>2 physicians.</p> <p>3 Q So you want to change that answer?</p> <p>4 A Yes.</p> <p>5 Q You've never been an expert for a plaintiff; correct?</p> <p>6 A I don't think so. No. No, definitely not.</p> <p>7 Q Were you ever asked by Ethicon to work on a clinical</p> <p>8 study that you said no to?</p> <p>9 A Well, I was only asked to -- well, the answer is no. I</p> <p>10 was only asked to work on a couple clinical studies, the</p> <p>11 ones that you have here.</p> <p>12 Q You've worked on three clinical studies for Ethicon;</p> <p>13 correct?</p> <p>14 A The abdominal guides and the TVT World Registry. Those</p> <p>15 are the only two.</p> <p>16 Q We'll talk about it later, but if the agreements you</p> <p>17 signed say differently, then --</p> <p>18 A Oh --</p> <p>19 Q -- would you agree that might be incorrect?</p> <p>20 A Oh, well, when you say clinical study, there might be</p> <p>21 something that was observational in terms of -- but in</p> <p>22 terms of a study that -- that the initial intention was</p> <p>23 for publication, I only recall two.</p> <p>24 Q Doctor, were you ever asked by Ethicon to give an opinion</p> <p>25 on behalf of them in the mesh litigation where you told</p>	<p>1 a puppet, Doctor, and nobody's accusing you of that.</p> <p>2 A I'm not concerned about being a puppet because I'm not.</p> <p>3 Q I know, and you keep telling me that, and that's why --</p> <p>4 A That's the first time we even brought it up. When did we</p> <p>5 discuss anything about me being --</p> <p>6 Q The -- my question is, I'm not accusing you of saying</p> <p>7 that -- of saying exactly what they want you to. What</p> <p>8 I'm asking is, have you ever been approached by them with</p> <p>9 a case where they said, "Hey, can you give us opinions in</p> <p>10 this case," and you've said no?</p> <p>11 A Oh, I see what you're saying. Yes. Yes. I've told them</p> <p>12 that I've got more on my plate than I'm comfortable with.</p> <p>13 Q Have you ever told them -- have you ever reviewed a case</p> <p>14 and said, no, I think the mesh might have had something</p> <p>15 to do with that. I'm not going to -- I won't -- I can't</p> <p>16 give you opinions in that case?</p> <p>17 A I've not seen a case like that where I've had that</p> <p>18 opinion.</p> <p>19 Q Have you ever seen a woman who had complications -- who</p> <p>20 had complications related to mesh where you thought that</p> <p>21 the mesh was somehow responsible for it?</p> <p>22 MR. KOOPMANN: Objection. Form.</p> <p>23 THE WITNESS: Well, the answer to that</p> <p>24 is, the mesh inherently is what -- is not causing the</p> <p>25 complication. There are other issues that cause the</p>

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<p>1 complication. That is wound healing, maybe more patient</p> <p>2 selection, having to do with surgical technique. But the</p> <p>3 mesh inherently is safe.</p> <p>4 Q (By Mr. DeGreeff) So have you ever done an explant on a</p> <p>5 woman due to mesh complications where you thought that</p> <p>6 the mesh was causing those complications?</p> <p>7 A Well, if you're talking about exposure that -- with the</p> <p>8 mesh being exposure by definition and their having</p> <p>9 complications and they feel that exposure, then</p> <p>10 indirectly the mesh is what needs to be addressed. But</p> <p>11 it isn't like you put mesh in someone and it's -- and it</p> <p>12 creates a problem. It's how you put it in and how well</p> <p>13 they heal.</p> <p>14 Q So you believe that every time you've ever removed mesh</p> <p>15 from a woman due to complications, that was either the</p> <p>16 result of the body not handling mesh correctly or a -- or</p> <p>17 whoever put it in doing it wrong?</p> <p>18 A Well, not necessarily wrong. Every surgery has adverse</p> <p>19 outcomes, and I can't attribute a specific adverse event</p> <p>20 to -- you don't always know the exact cause of it,</p> <p>21 especially if it's somewhat nebulous like pain.</p> <p>22 Q Have you ever removed mesh due to mesh complications and</p> <p>23 reported it as an adverse event to Ethicon?</p> <p>24 A Not to -- to the -- to the MAUDE databank.</p> <p>25 Q You've reported it as an adverse event to the MAUDE</p>	<p>1 we would do courses, with all the other physicians in the</p> <p>2 room, that this can happen and this is how I manage it,</p> <p>3 in a generalized sense, not in a specific sense.</p> <p>4 Q And when you were teaching that to other physicians, did</p> <p>5 you tell them, this is a problem that the mesh causes?</p> <p>6 A No.</p> <p>7 Q What did you tell them?</p> <p>8 A This is how you avoid these complications, but if you get</p> <p>9 certain -- certain -- certain things can cause higher</p> <p>10 incidence of mesh exposure, having to do with the</p> <p>11 dissection and hydrodissection, the depth of your</p> <p>12 incision, whether or not you develop a hematoma or an</p> <p>13 seroma afterwards.</p> <p>14 There are other different reasons. And then there's</p> <p>15 the patient's body habitus and what their medical</p> <p>16 condition is, whether they're taking steroids, whether</p> <p>17 they've had radiation to the pelvis. There are all kinds</p> <p>18 of reasons that can predispose you to having an adverse</p> <p>19 event, outcome.</p> <p>20 Q This is all potential complications of surgery; correct?</p> <p>21 A Correct.</p> <p>22 Q Did you ever teach any of those physicians that mesh was</p> <p>23 in some way unsafe?</p> <p>24 A No. Because I don't believe it is unsafe.</p> <p>25 Q Do you believe that all forms of mesh are safe?</p>
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<p>1 databank?</p> <p>2 A I have memory several years ago.</p> <p>3 Q Okay. And how many times have you reported adverse</p> <p>4 events due to Ethicon mesh to the MAUDE database?</p> <p>5 A I can't recall. I mean, it's been a long time.</p> <p>6 Q More than one?</p> <p>7 A Probably more than one, yes.</p> <p>8 Q Under what circumstances did you report that as an</p> <p>9 adverse event to the MAUDE database?</p> <p>10 A Well, I think it was early on, if you have a mesh</p> <p>11 exposure.</p> <p>12 Q What about a mesh exposure makes it reportable?</p> <p>13 A Well, if you look at what's considered an adverse --</p> <p>14 what's on the list of what could be an adverse event,</p> <p>15 that's one of the possibilities of an adverse event.</p> <p>16 It's a very kind of -- it's a difficult process, and the</p> <p>17 reason I stopped doing it is because it just wasn't -- I</p> <p>18 mean, it was a -- it took too much time to do.</p> <p>19 Q Okay. Have you ever -- have you ever reported any of</p> <p>20 the -- let's go back.</p> <p>21 Have you ever removed mesh from a woman due to mesh</p> <p>22 complications and reported to Ethicon directly that you</p> <p>23 believed it was an adverse event associated with the</p> <p>24 mesh?</p> <p>25 A I'm -- not to Ethicon directly, but we'd discuss it when</p>	<p>1 A Boy, that's a --</p> <p>2 Q Transvaginal mesh?</p> <p>3 A Oh, I was going to say, I did two mesh repairs this</p> <p>4 morning.</p> <p>5 Q Not hernia mesh. Do you believe that transvaginal -- all</p> <p>6 the forms of transvaginal mesh are safe?</p> <p>7 A All forms. No. There -- I've seen products that I</p> <p>8 thought were not safe.</p> <p>9 Q How about Ethicon products? Do you believe that all</p> <p>10 Ethicon transvaginal mesh products are safe?</p> <p>11 A Yes, I do.</p> <p>12 Q Even those removed from the market?</p> <p>13 A Yes, I do.</p> <p>14 Q What kind of surgeries did you do this morning?</p> <p>15 A I did two herniorrhaphies, bladder tumor, and a urethral</p> <p>16 dilation.</p> <p>17 Q Doctor, have you ever reported to Ethicon, in all the</p> <p>18 years you were consulting for them, that you believed</p> <p>19 there was anything about any of their transvaginal mesh</p> <p>20 products that was unsafe?</p> <p>21 A No.</p> <p>22 Q Doctor, you were a -- Doctor, what medical journals do</p> <p>23 you subscribe to regularly?</p> <p>24 A Journal of Urology, Urology Practice Journal. The rest I</p> <p>25 get either online -- I mean, there's the AUA News.</p>

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<p>1 There's Urology Today. All of them have articles in</p> <p>2 them.</p> <p>3 Q Are some of those online also?</p> <p>4 A Yeah.</p> <p>5 Q What's the last article on transvaginal mesh that you</p> <p>6 read?</p> <p>7 A There were -- well, there were multiple articles that I</p> <p>8 read at AUGS in October.</p> <p>9 Q And this is -- you're going to get us the AUGS pamphlet,</p> <p>10 you said?</p> <p>11 A Sure. Sure, sure. I'll have to write that down to</p> <p>12 remember.</p> <p>13 Q If I mark -- actually, will you just provide that to your</p> <p>14 defense counsel, and he can provide it to us?</p> <p>15 A Sure.</p> <p>16 Q Thank you.</p> <p>17 Anything -- any other articles you've reviewed</p> <p>18 recently, other than what you saw at AUGS?</p> <p>19 A Well, there have been multiple articles that have been</p> <p>20 written that discuss mesh, mesh complications, where</p> <p>21 we're at in terms of its utilization now that the</p> <p>22 litigation has created all this public concern, and how</p> <p>23 to -- so there were articles out there, how to manage</p> <p>24 that, how to inform your patient in terms of consent.</p> <p>25 Q So you're talking about articles dealing with the fallout</p>	<p>1 wealthiest companies in the world are?</p> <p>2 A No, I don't. I don't. I don't follow Fortune 500. But</p> <p>3 I don't know if medical device is up there.</p> <p>4 Q Doctor, haven't you gone on TV to promote Ethicon?</p> <p>5 A Once.</p> <p>6 Q Do you find it a little ironic that you're now</p> <p>7 complaining about commercials?</p> <p>8 MR. KOOPMANN: Objection to form.</p> <p>9 THE WITNESS: No, not at all. It was</p> <p>10 public health awareness. I was invited by the television</p> <p>11 station to do it.</p> <p>12 Q (By Mr. DeGreeff) To promote Ethicon?</p> <p>13 A No, there was nothing said about Ethicon. It was all</p> <p>14 about stress incontinence and what can be done about it.</p> <p>15 Q Doctor, let's look at your reports that we've marked as</p> <p>16 Deposition Exhibit 14 and 15, I think.</p> <p>17 A Uh-huh.</p> <p>18 Q Let's start with 14. And I believe -- Exhibit 14, and</p> <p>19 that's your TVT-O and TVT-R report; is that correct?</p> <p>20 A Yes.</p> <p>21 Q And, Doctor, does that contain all of your opinions about</p> <p>22 those products that you plan to give in this litigation?</p> <p>23 A I think it does, yes.</p> <p>24 Q And your TVT-S report, which is marked as Exhibit 15,</p> <p>25 does that contain all your opinions that you plan to give</p>
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<p>1 from the fact that people are now becoming educated on</p> <p>2 all the problems with transvaginal mesh?</p> <p>3 MR. KOOPMANN: Objection to form.</p> <p>4 THE WITNESS: Now, the word</p> <p>5 "education," I would put an asterisk by, how there are</p> <p>6 commercials on television that warn about the danger of</p> <p>7 pelvic mesh and whether there's money there for you if</p> <p>8 you just call 1-800 number.</p> <p>9 Q (By Mr. DeGreeff) Doctor, have you ever seen any ads on</p> <p>10 TV by pharmaceutical or medical device companies?</p> <p>11 A You mean promoting their products?</p> <p>12 Q Yeah.</p> <p>13 A Yes.</p> <p>14 Q Who do you think makes more money off of commercials?</p> <p>15 MR. KOOPMANN: Objection. Form.</p> <p>16 Calls for speculation.</p> <p>17 THE WITNESS: Who makes more money off</p> <p>18 commercials? I think the attorneys do who have those, by</p> <p>19 far, by a -- maybe a factor of 10 to the 5th.</p> <p>20 Q (By Mr. DeGreeff) Have you ever looked at what the</p> <p>21 wealthiest companies in the world are?</p> <p>22 MR. KOOPMANN: Objection. Form.</p> <p>23 THE WITNESS: And does that imply that</p> <p>24 they're nefarious?</p> <p>25 Q (By Mr. DeGreeff) My question was, do you know what the</p>	<p>1 in this litigation with regard to TVT-S?</p> <p>2 A Yes, it does.</p> <p>3 Q And in fairness to you, there may be case-specific stuff,</p> <p>4 and if that's different -- correct?</p> <p>5 A Yes.</p> <p>6 Q Doctor, I have one question, if you'll look at Deposition</p> <p>7 Exhibit 14, Page 2. Under your teaching and training</p> <p>8 experience related to stress urinary incontinence, under</p> <p>9 that section, Subsection C -- see where I'm at?</p> <p>10 A I think so.</p> <p>11 Q -- it says -- and correct me if I read this incorrectly,</p> <p>12 but it says, "I served as a faculty member at the Ethicon</p> <p>13 Endosurgical Institute and as a national preceptor for</p> <p>14 Gynecare products conducting over 300 courses for</p> <p>15 advanced surgical training of physicians."</p> <p>16 Did I read that correctly? I mean, I understand</p> <p>17 that I stopped a little early.</p> <p>18 A Yes.</p> <p>19 Q My question is, what is -- and I -- this may be because</p> <p>20 I'm new to med, but what do the courses for advanced</p> <p>21 surgical training of physicians constitute? What is</p> <p>22 that?</p> <p>23 A So everyone who takes the course is already an M.D. They</p> <p>24 have already -- they're either, in this case,</p> <p>25 gynecologists or urologists who do pelvic surgery, and</p>

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<p>1 the course would be a didactic lecture of several hours,</p> <p>2 followed by a cadaver course where we would go and do the</p> <p>3 procedures on the cadavers.</p> <p>4 Q So were all of those full-day courses?</p> <p>5 A No. Of the 300, some of these are lectures, either</p> <p>6 during the day or at night. We had what is called an</p> <p>7 advanced users forum, where I would give a lecture on the</p> <p>8 different devices and optimal surgical technique,</p> <p>9 avoidance of complications.</p> <p>10 But the ones that were cadaver courses usually</p> <p>11 started about 7:00 a.m., and usually concluded by about</p> <p>12 3:00 p.m. in the afternoon.</p> <p>13 Q Do you have any idea how many of the 300 would have been</p> <p>14 cadaver courses?</p> <p>15 A I would put it about 100.</p> <p>16 Q And would the -- and cadaver courses are a full day?</p> <p>17 A Pretty much, yes. You could stay as long as you wanted.</p> <p>18 Q And of the remaining 200, how many of those would be full</p> <p>19 day versus half day versus --</p> <p>20 A Oh, well, those would be either half day or it would be a</p> <p>21 one- or two-hour lecture.</p> <p>22 Q How many do you think would be half day?</p> <p>23 A Oh, boy. The majority.</p> <p>24 Q Of the 200?</p> <p>25 A Uh-huh. Or less. You know, in other words, a two- or</p>	<p>1 Do all of your reports in the Wave 1 litigation have the</p> <p>2 same reliance list? In other words, they're not</p> <p>3 different for each report?</p> <p>4 A No, I don't -- they're not different.</p> <p>5 Q Okay.</p> <p>6 A Because it's generalized because each of the case</p> <p>7 specifics, they may have a combination, they may only</p> <p>8 have a sling, they may have a Prolift, they may have a</p> <p>9 Prosima, they may have a Secur, so --</p> <p>10 Q That's fine. I'm just trying to make sure there's not</p> <p>11 multiple reliance lists I should be looking at.</p> <p>12 A No, this is the one.</p> <p>13 Q And, Doctor, does that contain all of the -- all of the</p> <p>14 articles and literature and documents you are relying on</p> <p>15 in support of your opinions rendered on all of the</p> <p>16 products involved in the Wave 1 litigation?</p> <p>17 MR. KOOPMANN: Objection. Form.</p> <p>18 THE WITNESS: Yes.</p> <p>19 Q (By Mr. DeGreeff) And, Doctor, who prepared that</p> <p>20 reliance list?</p> <p>21 A The law firm prepared it.</p> <p>22 Q Defense counsel?</p> <p>23 A Yes.</p> <p>24 Q And, Doctor, would that reliance list -- strike that.</p> <p>25 Doctor, you're not doing any current research on</p>
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<p>1 three-hour -- well, I don't know if you'd consider that a</p> <p>2 half day. A lecture, discussion.</p> <p>3 Q No, that's what I'm saying. So you said that -- so would</p> <p>4 any of those 200 also be full days?</p> <p>5 A No. Because I'm saying that the full days would be the</p> <p>6 cadaver days.</p> <p>7 Q The 100 full days.</p> <p>8 A Yeah.</p> <p>9 Q So the 200 would be half days?</p> <p>10 A Or -- sure.</p> <p>11 Q Okay. And would those 300 courses, were those done</p> <p>12 pursuant to a consulting agreement or some other</p> <p>13 agreement with the company?</p> <p>14 A Just the consulting agreement.</p> <p>15 Q Each of your reports that you've -- each of your general</p> <p>16 reports that you've given in this litigation includes a</p> <p>17 reliance list; correct?</p> <p>18 A Yes.</p> <p>19 (Exhibit No. 16 marked for</p> <p>20 identification.)</p> <p>21 Q (By Mr. DeGreeff) And, Doctor, I'm handing you what I've</p> <p>22 marked as Deposition Exhibit 16, and that's a copy of</p> <p>23 your reliance list; is that correct?</p> <p>24 A Yes.</p> <p>25 Q And, Doctor, I just want to make sure I'm not confused.</p>	<p>1 polypropylene meshes, are you?</p> <p>2 A No.</p> <p>3 Q And you've never written in a peer-reviewed journal on</p> <p>4 polypropylene mesh, have you?</p> <p>5 A No.</p> <p>6 Q Have you ever written anything on the Burch procedure?</p> <p>7 A No.</p> <p>8 Q Have you ever written on biologic tissues slings?</p> <p>9 A No.</p> <p>10 Q Can we agree you're not what's known as an academic</p> <p>11 physician?</p> <p>12 A That's correct.</p> <p>13 Q You're not an expert in chemical engineering; correct?</p> <p>14 A Correct.</p> <p>15 Q You're not an expert in pathology?</p> <p>16 A Correct.</p> <p>17 Q You're not an expert in polymer chemistry?</p> <p>18 A Correct.</p> <p>19 Q You have no background in polymer chemistry?</p> <p>20 A Correct. Although I have a degree in chemistry. Now, we</p> <p>21 certainly use polymers.</p> <p>22 Q Are you planning to give any opinions based on -- strike</p> <p>23 that.</p> <p>24 Do you consider yourself to be an expert for the</p> <p>25 basis of giving opinions on polymer chemistry?</p>

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<p>1 A No.</p> <p>2 Q You've never done any bench research on polypropylene</p> <p>3 mesh, have you?</p> <p>4 A No.</p> <p>5 Q You've never done lab research on polypropylene?</p> <p>6 A No.</p> <p>7 Q Have you ever done any kind of pathological analysis on</p> <p>8 explanted polypropylene mesh?</p> <p>9 A Read multiple articles on it, but I have not done</p> <p>10 research on it.</p> <p>11 Q Have you ever actually done the -- done any analysis,</p> <p>12 other than just reading the articles?</p> <p>13 A Correct.</p> <p>14 Q You're not a biomaterials specialist, are you?</p> <p>15 MR. KOOPMANN: Objection. Form.</p> <p>16 THE WITNESS: I'm not a biomaterials</p> <p>17 specialist. But I have a long legacy of using synthetic</p> <p>18 materials in the body.</p> <p>19 Q (By Mr. DeGreeff) You're not holding yourself out as a</p> <p>20 biomaterial expert in this case, are you?</p> <p>21 A No.</p> <p>22 Q You've never published opinions that polypropylene mesh</p> <p>23 doesn't degrade in the human body, have you?</p> <p>24 A I have not.</p> <p>25 Q You've never published opinions that polypropylene does</p>	<p>1 MR. KOOPMANN: Objection. Form.</p> <p>2 Q (By Mr. DeGreeff) Medical device warnings?</p> <p>3 MR. KOOPMANN: Same objection.</p> <p>4 THE WITNESS: No.</p> <p>5 Q (By Mr. DeGreeff) You're not a biomedical engineer, are</p> <p>6 you?</p> <p>7 A No, I'm not.</p> <p>8 Q And we've already talked about this, but you're not</p> <p>9 holding yourself out as an expert on the design of</p> <p>10 medical devices, are you?</p> <p>11 MR. KOOPMANN: Objection to form.</p> <p>12 Asked and answered many times.</p> <p>13 THE WITNESS: I'm not an expert on it,</p> <p>14 although I have been using medical devices for my entire</p> <p>15 career. So I certainly can give opinions on their safety</p> <p>16 and efficacy.</p> <p>17 Q (By Mr. DeGreeff) Well, now, giving an opinion on</p> <p>18 whether you believe a device is safe and effective is</p> <p>19 different than being able to give an opinion on design;</p> <p>20 correct?</p> <p>21 A Yes.</p> <p>22 Q Are you qualified to give -- you're not holding yourself</p> <p>23 out as an expert on the area of design, are you?</p> <p>24 MR. KOOPMANN: Objection to form.</p> <p>25 THE WITNESS: No.</p>
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<p>1 not create a foreign body reaction, have you?</p> <p>2 A No.</p> <p>3 Q Have you ever authored an article on SUI or incontinence</p> <p>4 in general?</p> <p>5 MR. KOOPMANN: Object to the form.</p> <p>6 THE WITNESS: Well, yes.</p> <p>7 Q (By Mr. DeGreeff) Which one would that be?</p> <p>8 A That's the Tincello article that's in here, the TVT World</p> <p>9 Registry.</p> <p>10 Q You believe that deals with SUI or incontinence</p> <p>11 generally?</p> <p>12 A Oh, well, it's for the treatment of stress incontinence.</p> <p>13 Q And that was the one that got cut off early?</p> <p>14 A That was the one that was completed at the one-year mark</p> <p>15 and published.</p> <p>16 Q Published in 2014?</p> <p>17 A That's my memory.</p> <p>18 Q After the TVT-S was taken off the market?</p> <p>19 A I don't remember the chronology of which was which, but</p> <p>20 yeah, that probably is true.</p> <p>21 Q Doctor, what was the point of publishing the article</p> <p>22 after the product was removed from the market?</p> <p>23 A That's the point of science. It's to -- it's an ongoing</p> <p>24 investigation that -- that's a philosophical question.</p> <p>25 Q Doctor, you're not an expert on warnings, are you?</p>	<p>1 Q (By Mr. DeGreeff) I mean, you've never designed a</p> <p>2 medical device; correct?</p> <p>3 A Correct.</p> <p>4 Q Never been involved in the design of a medical device?</p> <p>5 A I've been in -- I've been asked to give opinions on</p> <p>6 devices and -- during their development.</p> <p>7 Q You don't have any patents on medical devices?</p> <p>8 A No.</p> <p>9 Q Doctor, do you know what employees from Ethicon were</p> <p>10 involved in the design of the TVT?</p> <p>11 A No. I thought Ulf Ulmsten was the one who designed the</p> <p>12 TVT.</p> <p>13 Q Do you know what Ethicon paid Ulf for the product?</p> <p>14 A No.</p> <p>15 Q What is MedScan?</p> <p>16 A I'm not sure. Is that a search engine for medical -- or</p> <p>17 articles, scientific articles?</p> <p>18 Q I'm asking you, Doctor. Did Dr. Ulmsten design the mesh</p> <p>19 used in the TVT?</p> <p>20 MR. KOOPMANN: Objection. Form.</p> <p>21 THE WITNESS: My memory is that in the</p> <p>22 1990s -- and this is coming from his mouth -- he was</p> <p>23 experimenting with -- he came up, along with a</p> <p>24 gynecologist from Australia by the name of Petros, of a</p> <p>25 new and novel integral theory of continence, which was</p>

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<p>1 placed at the midurethra as a fulcrum point for</p> <p>2 continence, and he came up with the idea of placing a</p> <p>3 synthetic midurethral sling in that location.</p> <p>4 And he used several different products that were</p> <p>5 available at the time, including Gore-tex and Mersilene</p> <p>6 and other polypropylenes, and fell upon the -- the</p> <p>7 Ethicon polypropylene, which he then fashioned into the</p> <p>8 slings and applied the trocars and was doing those</p> <p>9 procedures.</p> <p>10 And I think Ethicon then contacted him about it</p> <p>11 since he ended up using their mesh, and they came to an</p> <p>12 agreement that he would sell his concept to the company.</p> <p>13 Q (By Mr. DeGreeff) Okay. So this may be -- Dr. Ulmsten</p> <p>14 did not design the mesh used in the TVT; correct?</p> <p>15 A No, he did not.</p> <p>16 Q He came up with the idea of cutting mesh into strips?</p> <p>17 A Yes.</p> <p>18 Q And that idea was ultimately purchased from him by</p> <p>19 Ethicon; correct?</p> <p>20 A That's my memory of it, yes.</p> <p>21 Q Do you know how much they paid him?</p> <p>22 A No.</p> <p>23 Q Does that matter to you?</p> <p>24 A No.</p> <p>25 Q Why not?</p>	<p>1 who championed it, along with industry.</p> <p>2 Q (By Mr. DeGreeff) You believe it is the industry</p> <p>3 standard to use the person who -- for a medical device</p> <p>4 company to use the person they paid for the product as</p> <p>5 the one to do the study on efficacy and safety?</p> <p>6 A Initially, I don't have a problem with it. Over time it</p> <p>7 gets expanded where there are other users who also will</p> <p>8 collect data. And in Scandinavia, they had a</p> <p>9 Scandinavian group, both Finland and Sweden. I think</p> <p>10 Norway also contributed to it. So there were multiple</p> <p>11 different hospitals and practitioners who did the initial</p> <p>12 studies for that product. It wasn't just Ulf Ulmsten.</p> <p>13 Q Would you want someone -- strike that.</p> <p>14 All things equal, would you have wanted Ulmsten or</p> <p>15 somebody objective who didn't invent the product and</p> <p>16 wasn't paid millions of dollars for it to be the one</p> <p>17 doing the initial safety and efficacy studies?</p> <p>18 MR. KOOPMANN: Objection. Form.</p> <p>19 THE WITNESS: I don't really have an</p> <p>20 opinion on that.</p> <p>21 Q (By Mr. DeGreeff) It doesn't matter to you?</p> <p>22 A It depends on what stringent controls are used to do the</p> <p>23 study. I'm not inherently suspicious of people, and I</p> <p>24 think, when you're talking about medical devices, that</p> <p>25 the vast majority of us want to be honest and</p>
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<p>1 A Because I consider it irrelevant.</p> <p>2 Q Do you consider it relevant that he was -- that him and</p> <p>3 another guy paid by Ethicon were the authors of all of</p> <p>4 the primary efficacy and safety studies on the product?</p> <p>5 MR. KOOPMANN: Objection. Form.</p> <p>6 THE WITNESS: Well, I think that</p> <p>7 whenever you're coming up with a new device, a new</p> <p>8 product, that's -- you team with industry to fund that</p> <p>9 pursuit.</p> <p>10 Q (By Mr. DeGreeff) Is there a conflict of interest for</p> <p>11 the company to pay a person they just paid millions of</p> <p>12 dollars to purchase a product from to be the same person</p> <p>13 who does the safety and efficacy studies on the product?</p> <p>14 MR. KOOPMANN: Objection. Form.</p> <p>15 THE WITNESS: Well, he's a physician</p> <p>16 and I'm a physician, and all of us want to do no harm to</p> <p>17 patients. We want to improve lives and minimize bad</p> <p>18 outcomes.</p> <p>19 And so, in my mind, who feels more responsible than</p> <p>20 the person who's developing the product? So I feel that</p> <p>21 if he is a responsible physician and researcher, that I</p> <p>22 don't have a problem with that.</p> <p>23 I think that is the industry standard, and there's</p> <p>24 many, many, many medical devices that are -- that are FDA</p> <p>25 approved, being used to this day, who there is someone</p>	<p>1 responsible. And the last thing in the world we want to</p> <p>2 do is create a product that's harmful.</p> <p>3 Q So it doesn't matter to you?</p> <p>4 MR. KOOPMANN: Objection. Form.</p> <p>5 THE WITNESS: It matters greatly. But</p> <p>6 I'm saying, I trust that whoever is championing this will</p> <p>7 be responsible. And look at the other side. Look at the</p> <p>8 industry side. If they come up with a product that is</p> <p>9 unsafe, they're going to have litigation against them.</p> <p>10 So if you're talking about capitalism, there are checks</p> <p>11 and balances in it.</p> <p>12 Q (By Mr. DeGreeff) You mean like the litigation that's</p> <p>13 now being brought against Ethicon with regard to their</p> <p>14 transvaginal mesh product?</p> <p>15 MR. KOOPMANN: Objection. Form.</p> <p>16 THE WITNESS: I could give you a dozen</p> <p>17 cases. How about the silicone breast implants of a</p> <p>18 generation ago, where the science that was claimed at the</p> <p>19 time was refuted five years later after all the payouts.</p> <p>20 Q (By Mr. DeGreeff) Doctor, these are your words, not</p> <p>21 mine. You're the one who said if they -- that there's</p> <p>22 checks and balances, and that there would be litigation</p> <p>23 against them if they made a device that was unsafe.</p> <p>24 A There's always the sort of Damocles over physicians and</p> <p>25 product companies that develop devices in the medical</p>

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<p>1 field.</p> <p>2 Q Doctor, does Ethicon prohibit inventors from</p> <p>3 participating in studies on the inventor's device as of</p> <p>4 now?</p> <p>5 MR. KOOPMANN: Objection. Form.</p> <p>6 THE WITNESS: I have no idea.</p> <p>7 Q (By Mr. DeGreeff) Would that be something you'd want to</p> <p>8 know?</p> <p>9 MR. KOOPMANN: Objection. Form.</p> <p>10 THE WITNESS: That -- can you restate</p> <p>11 the question?</p> <p>12 Q (By Mr. DeGreeff) Does Ethicon currently prohibit</p> <p>13 inventors from participating in studies on the device</p> <p>14 they invented?</p> <p>15 A I don't -- I'm certainly not aware that they do that. I</p> <p>16 wouldn't be in support of them doing that.</p> <p>17 Q You would not be in support of them doing that?</p> <p>18 A Correct.</p> <p>19 Q You think that they should allow the inventors to be the</p> <p>20 ones who do it?</p> <p>21 A Oh, the inventors. Are you saying that you feel that</p> <p>22 Ethicon should prevent the inventors from studying their</p> <p>23 own invention? Is that what you're saying?</p> <p>24 Q No. I'm saying -- I'm asking you a question. Does</p> <p>25 Ethicon currently prohibit inventors from participating</p>	<p>1 THE WITNESS: Well, can you give me a</p> <p>2 product or material that you want to apply it to?</p> <p>3 Q (By Mr. DeGreeff) Mesh. What should be in a failure</p> <p>4 mode designs effect analysis for mesh?</p> <p>5 MR. KOOPMANN: Objection. Form.</p> <p>6 THE WITNESS: Well, one would be what</p> <p>7 its tensile strength is, elongation overload. Those</p> <p>8 would be the main ones.</p> <p>9 Q (By Mr. DeGreeff) Have you ever -- did you review the --</p> <p>10 any of the FMEAs in this case?</p> <p>11 A I've seen some, yes.</p> <p>12 Q For transvaginal mesh?</p> <p>13 A Uh-huh.</p> <p>14 Q Which ones?</p> <p>15 A Oh, I think Guenther is one. Moalli has some. But</p> <p>16 there's Dietz study from Australia that described the</p> <p>17 bench loading and elongation.</p> <p>18 Q You're talking about articles and studies; correct?</p> <p>19 A Yes. But I -- as far as the -- you mean as far as</p> <p>20 corporate documents in terms of what they did prior to</p> <p>21 the product being released?</p> <p>22 Q Yes.</p> <p>23 A I would glance over them and not -- and not read them.</p> <p>24 Q All potential hazards should be in the failure modes</p> <p>25 effects analysis for TVT; correct?</p>
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<p>1 in studies on the inventor's device?</p> <p>2 A Oh, again, I have no idea. How would I know that</p> <p>3 information? I've not heard it.</p> <p>4 Q Do you think they should?</p> <p>5 A Should prevent? No.</p> <p>6 Q Do you know whether Ethicon has any policies in place</p> <p>7 that prohibit inventors from participating in studies on</p> <p>8 the inventor's device?</p> <p>9 A I'm not aware.</p> <p>10 Q Do you think they should?</p> <p>11 A It's -- I don't have an opinion.</p> <p>12 Q It doesn't matter to you?</p> <p>13 A No.</p> <p>14 Q Doctor, are you aware of how long it took the -- it took</p> <p>15 Ethicon to get the TVT-O product to market?</p> <p>16 A I don't recall the timeline.</p> <p>17 Q Doctor, what is Provencia?</p> <p>18 A I don't know.</p> <p>19 Q Do you know what a failure modes and effect analysis is?</p> <p>20 A That sounds like an engineering design study to look at</p> <p>21 physical properties of different products/materials.</p> <p>22 Q Have you ever been involved in one of those analyses?</p> <p>23 A No.</p> <p>24 Q What should be in a failure modes and effects analysis?</p> <p>25 MR. KOOPMANN: Objection. Form.</p>	<p>1 MR. KOOPMANN: Objection. Form.</p> <p>2 THE WITNESS: Again, I don't know what</p> <p>3 that means.</p> <p>4 Q (By Mr. DeGreeff) You don't know what a design failure</p> <p>5 modes effect analysis is?</p> <p>6 A Well, I know -- I know what the term is, but when you're</p> <p>7 saying -- there's a difference between in vivo and ex</p> <p>8 vivo. If you're talking about bench testing products</p> <p>9 that the stresses that are put on them are greater than</p> <p>10 the physiologic stress in the body, I don't think those</p> <p>11 are relevant.</p> <p>12 I mean, it's fine to do the studies to get a sense</p> <p>13 of what the burst strength is of mesh, but it's never</p> <p>14 going to be seen after it's deployed.</p> <p>15 Q And you don't find those studies relevant, or those</p> <p>16 relevant?</p> <p>17 A Well, it has a relevance, but it doesn't have a high</p> <p>18 significance.</p> <p>19 Q You don't find them significant?</p> <p>20 A It has a significance. I can't -- I'm not going to give</p> <p>21 you a degree of significance.</p> <p>22 Q You didn't rely on them in giving your opinions in this</p> <p>23 case; fair?</p> <p>24 A Well, when I looked at them, I want to make sure that the</p> <p>25 stressors of these meshes, after they're deployed in the</p>

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<p>1 body, that they're not going to degrade at those -- at</p> <p>2 those loads. In that regard they're relevant. When</p> <p>3 you're talking about you're pushing out the load a long</p> <p>4 way, which is not physiologic, that's not relevant.</p> <p>5 Q Okay. So I guess my -- I'm not sure that you ever</p> <p>6 answered my question. As you sit here, do you remember</p> <p>7 reviewing any of the design failure mode effects analysis</p> <p>8 for the transvaginal -- the Ethicon transvaginal mesh</p> <p>9 products in rendering your opinions?</p> <p>10 A I don't recall specific ones. If you put one in front of</p> <p>11 me, I can tell you whether I've reviewed it.</p> <p>12 Q You told me a lot of the documents were in another</p> <p>13 language. Did you ask for those to be translated?</p> <p>14 A No.</p> <p>15 Q As you sit here, you don't remember -- you can't remember</p> <p>16 reviewing any specific design failure mode effects</p> <p>17 analysis on -- regarding transvaginal mesh made by</p> <p>18 Ethicon?</p> <p>19 A I can't recall a specific one, no.</p> <p>20 Q Did you review any internal documents discussing how long</p> <p>21 it took Ethicon to get the TVT-O product to the market?</p> <p>22 MR. KOOPMANN: Objection. Form.</p> <p>23 Asked and answered.</p> <p>24 MR. DEGREEFF: It was?</p> <p>25 MR. KOOPMANN: I think so.</p>	<p>1 in this region of the country that is active that I would</p> <p>2 participate with.</p> <p>3 Q Have you ever been involved in a randomized controlled</p> <p>4 trial involving transvaginal mesh treatment of stress</p> <p>5 urinary incontinence or POP?</p> <p>6 A I'm trying to -- the one study I was in was not</p> <p>7 randomized. I think that was prospective.</p> <p>8 Q So the answer's no?</p> <p>9 A No.</p> <p>10 Q And I know you've explanted a mesh product; correct?</p> <p>11 A Yes.</p> <p>12 Q Have you explanted TVT-Rs?</p> <p>13 A Not the entire TVT. Sections of it, yes.</p> <p>14 Q Why have you not explanted the entire TVT?</p> <p>15 A Didn't have a need to.</p> <p>16 Q So you would explant a portion of a TVT-R and then leave</p> <p>17 the remainder in a woman's body?</p> <p>18 A Yes.</p> <p>19 Q So if a woman was coming to you for explant due to</p> <p>20 complications, you would remove a portion of the mesh and</p> <p>21 leave the remainder in the vagina?</p> <p>22 MR. KOOPMANN: Objection. Form.</p> <p>23 THE WITNESS: I would have a clinical</p> <p>24 judgment as to what needs to be done. If there's</p> <p>25 exposure, you just remove the part that's exposed. If</p>
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<p>1 MR. DEGREEFF: No. I think I asked</p> <p>2 how long it took to get them to market.</p> <p>3 THE WITNESS: And I answered that I</p> <p>4 don't know how long it took. I remember reading internal</p> <p>5 documents about getting it to market, but again, I don't</p> <p>6 consider it relevant.</p> <p>7 Q (By Mr. DeGreeff) It doesn't matter to you if the -- how</p> <p>8 long or how fast they got it to market?</p> <p>9 A Well, I know, before it got to market, there was at least</p> <p>10 a one-year study, looking at the results, safety and</p> <p>11 efficacy.</p> <p>12 Q So you think there was a one-year study, looking at the</p> <p>13 results, safety and -- looking at the safety and efficacy</p> <p>14 of TVT-O before it made it to market?</p> <p>15 A Oh, I know there was one. I recall one. And then within</p> <p>16 a few months of it being introduced in the U.S., they had</p> <p>17 three-year -- three-year data.</p> <p>18 Q Doctor, have you ever published any of the opinions</p> <p>19 you're giving in this litigation in a peer-reviewed</p> <p>20 journal?</p> <p>21 A No.</p> <p>22 Q Have you ever been involved in any clinical trials</p> <p>23 comparing midurethral slings to any other pelvic surgery?</p> <p>24 A No, no. I'm not an academic urologist, so I don't have</p> <p>25 the resources. And where I'm at, there's really no one</p>	<p>1 there was a surgical misadventure and, say, the mesh was</p> <p>2 placed through the wall of the bladder, then I would have</p> <p>3 to go after all that area that was involved.</p> <p>4 But there's no reason to chase all of it out of the</p> <p>5 body because it's -- it's biologically inert where it is</p> <p>6 and doesn't need to be done.</p> <p>7 Q (By Mr. DeGreeff) Do you believe that the mesh used in</p> <p>8 TVT-R is biologically inert?</p> <p>9 A I think the -- there's a local inflammatory effect</p> <p>10 initially, which induces fibrosis, some scarring, some</p> <p>11 collagen deposition, angiogenesis into the -- into the</p> <p>12 monofilament, and then it settles down over time.</p> <p>13 Q So you believe that long-term the -- the transvaginal</p> <p>14 mesh used in the TVT products is biologically inert?</p> <p>15 MR. KOOPMANN: Objection. Form.</p> <p>16 THE WITNESS: I don't know your</p> <p>17 definition of inert, but I would use the word quiet. I</p> <p>18 have patients who are out 15 years from slings that I</p> <p>19 have done and I've examined them and they're asymptomatic</p> <p>20 and they have great results, and they're not concerned</p> <p>21 with the sling in their body. It's not bothering them.</p> <p>22 Q (By Mr. DeGreeff) Doctor, what's the definition of</p> <p>23 inert?</p> <p>24 A Well, inert is nonactive.</p> <p>25 Q So your definition of inert is nonactive?</p>

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<p>1 A Yeah. That there's nothing going on.</p> <p>2 Q So you believe that long-term transvaginal mesh is</p> <p>3 nonactive within a woman's body?</p> <p>4 A In the vast majority of cases, I would say yes.</p> <p>5 Q So when you remove mesh, you sometimes make the decision</p> <p>6 to leave portions of the mesh in because you believe</p> <p>7 long-term it's nonactive within a woman's body?</p> <p>8 A Well, the only reason to remove a portion of mesh is if</p> <p>9 they are symptomatic in that area. So if one area</p> <p>10 there's a trigger point and they have pain and they</p> <p>11 haven't responded to conservative measures, you can</p> <p>12 remove the sling in that location, but you could leave</p> <p>13 the contralateral side alone if it's not bothering them.</p> <p>14 In fact, if you leave the majority of the sling in place,</p> <p>15 there's a good chance they'll remain continent.</p> <p>16 Q So, Doctor, you have done TVT-R removal surgeries,</p> <p>17 correct, whether it was removing all of it or part of it?</p> <p>18 A Along with multiple other companies, yes.</p> <p>19 Q And you've done TVT-O removal surgeries, I'm assuming?</p> <p>20 A Just portions. Just, again, the exposed area.</p> <p>21 Q But you've done explant surgeries based on complications</p> <p>22 caused by TVT-O; is that fair? Not caused -- strike</p> <p>23 that. I know you probably aren't going to like that</p> <p>24 word.</p> <p>25 You've done remove- -- you've done explant surgeries</p>	<p>1 Q So in your entire time working with transvaginal mesh,</p> <p>2 between TVT, TVT-O, and TVT-S, you believe you've only</p> <p>3 done 15 to 16 removal surgeries?</p> <p>4 A I'm sure I've removed 35, 40 other products that are</p> <p>5 either transobturator or retropubic slings.</p> <p>6 Q So you've only done 50 total removal surgeries in your</p> <p>7 time working with transvaginal mesh?</p> <p>8 A Do you -- are you including POP repair, like Prolift or</p> <p>9 elevate, Apogee, Perigee, the other products?</p> <p>10 Q Well, I was asking specifically about TVT, but sure, we</p> <p>11 can talk about those too.</p> <p>12 A I mean, I don't keep numbers of it, but I've removed each</p> <p>13 of those products in the past.</p> <p>14 Q That was going to be my question. Where's the tracking</p> <p>15 data on TVT-Rs that were removed, on the number of</p> <p>16 explants you've done?</p> <p>17 A What do you mean by "tracking data"?</p> <p>18 Q Is that something you keep track of in your office?</p> <p>19 A No, I don't keep track of the numbers.</p> <p>20 Q How long have you been doing removal surgeries? When did</p> <p>21 you first start doing them?</p> <p>22 A Well, again, when you use the word "removal," I'll take</p> <p>23 out a specific area that may be exposed, or if there's a</p> <p>24 specific trigger point area of pain, I'll remove that</p> <p>25 part.</p>
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<p>1 of TVT-Os due to complications; correct?</p> <p>2 MR. KOOPMANN: Objection. Form.</p> <p>3 THE WITNESS: I have removed sections</p> <p>4 of TVT-Os for exposure. I can't remember any for any</p> <p>5 other reason.</p> <p>6 Q (By Mr. DeGreeff) And is that something you track?</p> <p>7 A Oh, I -- well, I track all my patients. I see them -- I</p> <p>8 try to see them on an annual basis, and if they don't</p> <p>9 agree, I try to make it every other year.</p> <p>10 Q So do you have something in your office where you track</p> <p>11 the reason for each removal and what product it is you're</p> <p>12 removing?</p> <p>13 A Their medical records.</p> <p>14 Q Is that a list you would keep in your office somewhere?</p> <p>15 A It's one I could retrieve.</p> <p>16 Q So you have a list currently kept in your office of the</p> <p>17 product you removed and with -- with the reason for</p> <p>18 removal?</p> <p>19 A No, I don't have a list.</p> <p>20 Q And how many TVT-O removal surgeries have you done?</p> <p>21 A Well, partial TVT-O, I would say a half dozen maybe.</p> <p>22 Q What about TVT-R?</p> <p>23 A Same. About a half dozen.</p> <p>24 Q What about TVT-S?</p> <p>25 A Maybe three or four.</p>	<p>1 Q Are those included in the six, six, and three?</p> <p>2 A Yes. But I mean, the -- it's -- these numbers are not --</p> <p>3 are not exact, by any means. I don't keep a log of them.</p> <p>4 Q Okay. How many days a week do you operate, Doctor?</p> <p>5 A Well, I don't know what you mean by operations. I do</p> <p>6 operations on Wednesdays in the hospital. I do</p> <p>7 operations on Tuesdays in my surgery center. And I do</p> <p>8 procedures on Mondays, but they could be any day of the</p> <p>9 week. I could do them night, weekend. So it varies on a</p> <p>10 week-to-week basis.</p> <p>11 Q So you don't have certain designated surgery days or</p> <p>12 times?</p> <p>13 A I do. Wednesdays for surgeries at the hospital, and</p> <p>14 Tuesdays in my surgery center.</p> <p>15 Q Okay. And do you do them all day, or what's the --</p> <p>16 A Depends on how many. As little as two or as many as all</p> <p>17 day.</p> <p>18 Q Okay.</p> <p>19 A Into the night.</p> <p>20 Q And we already talked about the fact that 50 percent of</p> <p>21 your practice is with men; right?</p> <p>22 A Yes.</p> <p>23 Q What percentage of your practice is related to treatment</p> <p>24 of stress urinary incontinence and POP?</p> <p>25 A Before the mesh litigation, it was at least 50 percent of</p>

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<p>1 my entire practice was. At that point I was probably</p> <p>2 seeing one-third males and two-thirds females. But</p> <p>3 because of the shrinking volume of women who seek care</p> <p>4 for these problems, I do less and less each year.</p> <p>5 Q And what percentage of your practice is related to</p> <p>6 treating TVM complications?</p> <p>7 A Oh, less than 1 percent.</p> <p>8 Q What percentage of your practice is related to the</p> <p>9 surgical treatment of TVM complications?</p> <p>10 A Oh, I'd say less than 1 percent at this point. I don't</p> <p>11 see them that often.</p> <p>12 Q Doctor, do you do anything within your office to track</p> <p>13 what percentage of the women that you do implants in are</p> <p>14 lost to follow-up?</p> <p>15 A No.</p> <p>16 Q Do you know what the national average is?</p> <p>17 A No.</p> <p>18 Q Do you know what the national average is on complications</p> <p>19 related to following implant surgeries with TVM?</p> <p>20 A Oh, there's several papers that provide those numbers.</p> <p>21 Q Certainly greater than 1 percent, isn't it?</p> <p>22 A I think it's about 3 and a half percent.</p> <p>23 Q So you believe 3 and a half is the rate?</p> <p>24 A One recent paper I reviewed, that was the rate of</p> <p>25 complications that required something to be done.</p>	<p>1 Q Doctor, Seattle's not a small town, is it?</p> <p>2 A Where I practice is relatively small.</p> <p>3 Q How --</p> <p>4 A I'm in the suburb.</p> <p>5 Q How far is that from Seattle?</p> <p>6 A About 15 miles north.</p> <p>7 Q Do you think somebody could easily drive 15 miles --</p> <p>8 A Oh, sure.</p> <p>9 Q -- to get the surgery done in Seattle?</p> <p>10 A Sure.</p> <p>11 Q What percentage of your practice is related to using</p> <p>12 transvaginal mesh to treat SUI and POP?</p> <p>13 A At this point probably 10 percent.</p> <p>14 Q What about in 2010?</p> <p>15 A At that point probably 20 percent, 20 to 25 percent.</p> <p>16 Q So how does that line up with the -- with what you told</p> <p>17 me earlier with the percentage of your practice related</p> <p>18 to treatment of SUI and POP? You said it used to be</p> <p>19 50 percent.</p> <p>20 A 50 percent of my -- not all patients who have</p> <p>21 incontinence or who have pelvic prolapse need surgery.</p> <p>22 So the percentage that actually need surgery is going to</p> <p>23 be much lower than the actual number of patients that</p> <p>24 you're seeing and treating.</p> <p>25 Q Okay.</p>
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<p>1 Q Ever seen any others that's different?</p> <p>2 A Oh, it's all -- it depends on what study and what cohort.</p> <p>3 If you happen to be a referral center, you're going to</p> <p>4 see a lot more because a lot of gynecologists aren't</p> <p>5 comfortable with doing repairs or revisions.</p> <p>6 Q And a lot of patients aren't comfortable going back to</p> <p>7 the person who put in an implant that gave them</p> <p>8 complications; fair?</p> <p>9 A That's -- complications in general, for all of medicine,</p> <p>10 a lot of times patients have unrealistic expectations and</p> <p>11 will go elsewhere when they don't have exactly the</p> <p>12 outcome that they want. That's very common, not just in</p> <p>13 this.</p> <p>14 Q Okay.</p> <p>15 A It's common with all complications.</p> <p>16 Q So it's typical for anybody -- any surgeon to have a</p> <p>17 significant loss to follow-up; is that fair?</p> <p>18 A It really -- it depends on what community you're in. If</p> <p>19 there are -- if you're in a smaller community and there's</p> <p>20 less choices of where to go, a lot of times, if a patient</p> <p>21 has a complication and doesn't see you, they'll see one</p> <p>22 of your colleagues, and they'll -- we can discuss it,</p> <p>23 they'll -- you'll find out about it. There's many a time</p> <p>24 where I've called a physician to tell them that a patient</p> <p>25 of theirs came in and this was their concerns.</p>	<p>1 A And ongoing follow-up of them.</p> <p>2 Q Fair enough. So those -- so in 2010, 20 to 25 percent of</p> <p>3 your practice was related to treatment of SUI and POP</p> <p>4 with transvaginal mesh?</p> <p>5 A Well, that's not the only thing I do. I don't only use</p> <p>6 mesh.</p> <p>7 Q Okay. So of the 20 to 25 percent of your practice</p> <p>8 related to treatment of SUI and POP in 2010, what --</p> <p>9 strike that.</p> <p>10 What percentage of your practice in 2010 dealt with</p> <p>11 treatment of SUI and POP via transvaginal mesh?</p> <p>12 A Well, for stress incontinence, if they needed surgery</p> <p>13 100 percent of them would get -- if they failed</p> <p>14 biofeedback, Kegel exercises, and conservative measures,</p> <p>15 they would get a sling, which is synthetic.</p> <p>16 For pelvic organ prolapse, it's a little more</p> <p>17 complicated because a lot of the surgery I would do would</p> <p>18 be with gynecologists, and they can do whatever they</p> <p>19 want. They may do a native plication, they may use an</p> <p>20 augmented repair, and I would do the sling at the same</p> <p>21 time -- at the same time of the surgery.</p> <p>22 So I couldn't give you a percent- -- probably</p> <p>23 half -- half of the patients who had pelvic organ</p> <p>24 prolapse, I would do a synthetic repair.</p> <p>25 Q Okay. So I guess --</p>

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<p>1 A Some would be native plication; some wouldn't need</p> <p>2 surgery at all.</p> <p>3 Q So of the patients you treated for SUI and POP in 2010,</p> <p>4 what percentage of them did you treat with -- I mean,</p> <p>5 what percentage did you treat with transvaginal mesh?</p> <p>6 A Well, the one -- those that went to surgery, I would say</p> <p>7 two-thirds.</p> <p>8 Q So -- okay. So two-thirds of the 20 to 25 percent?</p> <p>9 A Uh-huh.</p> <p>10 Q So we're talking about what, 12 to 20 percent, somewhere</p> <p>11 in there, that you -- that people -- of your total</p> <p>12 practice, dealt with treating women with transvaginal</p> <p>13 mesh for SUI or POP; is that fair?</p> <p>14 A I mean, it's such speculation. I really don't feel</p> <p>15 comfortable giving you numbers because it's not something</p> <p>16 that I've ever focused on or tracked.</p> <p>17 Q Certainly it wasn't the majority of your practice; is</p> <p>18 that fair?</p> <p>19 A Was not the majority? Is that what you're saying?</p> <p>20 Q Okay.</p> <p>21 A Well, yeah. Not the majority.</p> <p>22 Q And now it's only 10 percent; correct?</p> <p>23 A Correct.</p> <p>24 MR. KOOPMANN: Can we take another</p> <p>25 break when you get to a good stopping point?</p>	<p>1 was 25 percent of my practice.</p> <p>2 Q Okay.</p> <p>3 A And -- so -- and the products I would use to -- for</p> <p>4 surgery would be -- would include mesh, and the majority</p> <p>5 of the cases that I did, I would use pelvic mesh.</p> <p>6 Q So of that 25 percent, fair to say that 20 percent or so</p> <p>7 was related to transvaginal mesh or pelvic mesh?</p> <p>8 A Yes.</p> <p>9 Q In the transvaginal mesh removals you've done, the</p> <p>10 numbers we talked about before, were those just the</p> <p>11 Ethicon products? And the numbers you talked about were</p> <p>12 the six TVT-Rs, six TVT-Os, and three to four TVT-Ses.</p> <p>13 A Those are explants you're talking about, or revisions --</p> <p>14 Q Yes.</p> <p>15 A -- the ones you just . . .</p> <p>16 No -- state the question again because you just</p> <p>17 mixed --</p> <p>18 Q Well, I screwed that up because all TVT products are</p> <p>19 Ethicon, so we don't even have to -- I don't even have to</p> <p>20 ask that question.</p> <p>21 A But you were talking about revisions or explants. That</p> <p>22 really was the minority of those explants I did because I</p> <p>23 was a -- kind of a regional referral for complications,</p> <p>24 so it didn't matter what company's product was -- was the</p> <p>25 complication.</p>
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<p>1 (Recess from 4:12 p.m. to</p> <p>2 4:35 p.m.)</p> <p>3 EXAMINATION (Continuing)</p> <p>4 BY MR. DEGREEFF:</p> <p>5 Q All right, Doctor. I just want to wrap up what we were</p> <p>6 talking about before we left, make sure I understand what</p> <p>7 you're saying.</p> <p>8 Is it fair to say that, at certain times during your</p> <p>9 practice, a quarter of your practice was related to</p> <p>10 putting in or removing transvaginal mesh?</p> <p>11 A Well, I would say, if it's a quarter, 24 percent of it</p> <p>12 was putting in, and less than 1 percent taking out.</p> <p>13 Q Okay. Yeah, I'm not trying to imply the 25 percent was</p> <p>14 an explant. What I'm just trying to figure out, you</p> <p>15 know, during your time as a physician, was there -- at</p> <p>16 some point a quarter of your practice was related to</p> <p>17 transvaginal mesh?</p> <p>18 A Well, you know, I -- the reason that's difficult for me</p> <p>19 is that we have a kind of category of female urology,</p> <p>20 which is female pelvic health. And so that's voiding</p> <p>21 dysfunction, that can be dyspareunia, that can be urge</p> <p>22 incontinence, as well as stress incontinence. It could</p> <p>23 be recurrent urinary tract infections.</p> <p>24 So for the female side that is involved in pelvic</p> <p>25 organ prolapse and stress incontinence, I would say it</p>	<p>1 Q Okay. With the TVT-R, TVT-O and TVT-S removals that</p> <p>2 you've done, whether it be part or the full, what were</p> <p>3 the indications for removals in those typically?</p> <p>4 A Well, one would be urinary retention, and that would be</p> <p>5 an incision, not really a removal. Two would be mesh</p> <p>6 exposure, where conservative measures were not enough for</p> <p>7 there to be wound healing and closure over the exposed</p> <p>8 area of mesh.</p> <p>9 And then the other would be -- usually would be</p> <p>10 pain. So if they had an area that was painful, that</p> <p>11 would be the area that I would address after conservative</p> <p>12 measures.</p> <p>13 Q Did you ever do removals as a result of erosions?</p> <p>14 A Well, I define erosions as into the urethra or bladder.</p> <p>15 And I remember a couple that were sent to me, none of my</p> <p>16 own, but I remember, I think, two cases where there was</p> <p>17 urethral erosion, one where there was -- it wasn't -- it</p> <p>18 really wasn't erosion as much as it was placed -- one of</p> <p>19 the arms of an anterior approach was placed through the</p> <p>20 wall of the bladder at the time of surgery and it wasn't</p> <p>21 recognized for what it was.</p> <p>22 Q So have you done -- I think you -- that was a long way of</p> <p>23 you saying yes, you've done removals related to erosions.</p> <p>24 A In two occasions I recall that, yes.</p> <p>25 Q And you've done some -- strike that.</p>

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<p>1 A What I was trying to do was define the difference between 2 exposure and erosion. 3 Q Yeah, I know -- yeah, I'm familiar. But you've also done 4 removals related to mesh exposure; correct? 5 A Yes, yes. The majority would be that. 6 Q Have you ever had any of your patients with a TVT product 7 report chronic pain? 8 A Yes. 9 Q How often? 10 A Not often at all. I'm trying to even recall the last 11 one. 12 Q What about -- have you ever had one of your patients with 13 a TVT report pain with sex? 14 A Yes. 15 Q How often? 16 A Not often. The last one I remember was two years ago for 17 TVT, and it was a patient from Oregon that was sent up. 18 Q Have you ever seen one of your patients with transvaginal 19 mesh that's -- that has roped? 20 A Yeah. One of my patients? Perhaps -- yeah, maybe one or 21 two. 22 Q Have you ever seen one of your patients with transvaginal 23 mesh that's curled? 24 A Well, you can't -- you kind of discover that if you're 25 going to do an explant and excise it, so there have been</p>	<p>1 Q Doctor, have you ever seen one of your patients with 2 transvaginal mesh that has folded? 3 A Well, again, if it -- if it was initially folded, yes, 4 but if it -- but not -- it doesn't spontaneously fold. 5 Q Okay. It's your testimony that transvaginal mesh does 6 not spontaneously fold? 7 A Yes. 8 Q Is it your testimony that transvaginal mesh does not 9 spontaneously become deformed? 10 A Yes. 11 Q Doctor, have you ever had one of your patients in which 12 you put a TVT that's reported chronic pain? 13 A I'm sure I must have. 14 Q Is chronic pain something that can happen with 15 transvaginal mesh implants? 16 A Yes. 17 Q Ethicon implants? 18 A Yes. 19 Q TVT products? 20 A Yes. As well as other biologic and synthetic products. 21 MR. DEGREEFF: I'll move to strike 22 that as nonresponsive, the portion on biologics and other 23 products. 24 Q (By Mr. DeGreeff) Have you ever seen one of your 25 patients with transvaginal mesh -- actually, let me go</p>
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<p>1 a couple that I've had who were sent to me who had -- had 2 curling and roping. 3 Q Have you ever seen one of your patients with transvaginal 4 mesh that's frayed? 5 A Frayed. Frayed, no. I'm not sure I understand what 6 frayed is. That would be like torn. 7 Q Like a sweater frays? 8 A Yeah, no. I've had -- I've examined patients who have 9 had mesh exposure and then -- where there was incomplete 10 excision of it, and so there would be edges that were 11 still exposed because of a previous partial revision. 12 Q But you've never seen mesh that's frayed? 13 A No. 14 Q Have you ever seen one of your patients with transvaginal 15 mesh that has been deformed, become deformed? 16 MR. KOOPMANN: Objection. Form. 17 THE WITNESS: I don't know how you 18 define deformed. If it was placed improperly and wasn't 19 laid down flat at the time of the implant, if it was 20 doubled up or bunched, then you could call that deformed. 21 Q (By Mr. DeGreeff) Okay. Well, Doctor, when a physician 22 properly follows the instructions for use of Ethicon -- 23 for use by Ethicon, have you ever seen one of your 24 patients where mesh has deformed? 25 A Not if it's properly placed.</p>	<p>1 back. 2 Doctor, let's see if we can actually -- is chronic 3 pain something that can happen with the TVT products? 4 Yes or no? 5 MR. KOOPMANN: Objection. Form. 6 THE WITNESS: It could happen with any 7 products, including TVT. Chronic pain can happen with 8 any surgery, whether it's a biologic, a synthetic, or 9 native plication. 10 Q (By Mr. DeGreeff) Doctor, yes or no: Is chronic pain 11 something that can happen with the TVT products? And I 12 understand you want to get on your soapbox and get your 13 talking points in, but I just want an answer to my 14 question. 15 MR. KOOPMANN: Objection. Form. He 16 provided an answer. 17 THE WITNESS: I did answer it. 18 Q (By Mr. DeGreeff) Well, you're going to answer it again. 19 You're going to answer the question I'm asking. Is 20 chronic pain something that can happen with TVT products? 21 A Yes. 22 MR. KOOPMANN: Objection. Form. 23 Q (By Mr. DeGreeff) Doctor, have you ever seen 24 transvaginal mesh that has degraded? 25 A I answered that earlier and said no.</p>

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<p>1 Q You've never seen transvaginal mesh that's degraded?</p> <p>2 A No. I -- but I would like you to define degraded.</p> <p>3 Q What does degraded mean to you, Doctor?</p> <p>4 A It means disintegrating, falling apart.</p> <p>5 Q Okay. And you've never seen transvaginal mesh that's</p> <p>6 begun to degrade?</p> <p>7 A No.</p> <p>8 Q Can transvaginal mesh degrade within the body?</p> <p>9 A Polypropylene is very persistent. I have not experienced</p> <p>10 that. I've not seen that in my experience.</p> <p>11 Q Do you believe it's possible that transvaginal mesh can</p> <p>12 degrade within a woman's vagina?</p> <p>13 A No, I don't think it's possible.</p> <p>14 Q Have you ever seen transvaginal mesh that has contracted?</p> <p>15 A Yes.</p> <p>16 Q How many times?</p> <p>17 A Well, again, all mesh, when it's -- when it's laid in,</p> <p>18 there will be about a 10 or 15 percent contracture, which</p> <p>19 is the scar formation around it. It's not the mesh</p> <p>20 that's contracting. It's the tissues that incorporate it</p> <p>21 will retract and contract. So it's not the mesh that's</p> <p>22 contracting. It's just the fibroblasts and the cells</p> <p>23 that incorporate the mesh.</p> <p>24 Q So is it your testimony that transvaginal mesh, in and of</p> <p>25 itself, cannot contract?</p>	<p>1 Q So you believe that the 10 to 15 percent contraction rate</p> <p>2 with TVT during the healing process is related to scar</p> <p>3 tissue formation and not contraction of the mesh itself?</p> <p>4 A Yes.</p> <p>5 Q Doctor, if transvaginal mesh curls, do you agree that</p> <p>6 that can increase the risk of pain?</p> <p>7 A It's potential.</p> <p>8 Q Do you agree that it can increase scar plate formation?</p> <p>9 A The potential's there also.</p> <p>10 Q What about -- you said you've never seen transvaginal</p> <p>11 mesh fray, so what about transvaginal mesh that has</p> <p>12 folded? Do you agree that increases the risk of pain?</p> <p>13 A Not necessarily. It just depends on whether there's</p> <p>14 nerves in the vicinity that got folded in.</p> <p>15 Q Can it increase the risk of pain?</p> <p>16 A Potentially. I don't -- I don't know how to quantify it.</p> <p>17 Q It's just a simple question. Can it increase the risk of</p> <p>18 pain?</p> <p>19 A Well, it's a hypothetical question. I don't have any</p> <p>20 studies or statistics that I can rely on that can give</p> <p>21 you an opinion.</p> <p>22 Q Doctor, you understand that, as an expert witness, you</p> <p>23 are subject to hypothetical questions; correct?</p> <p>24 A Hypothetical. But what I rely on is level one evidence</p> <p>25 that I read in the literature and my own personal</p>
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<p>1 A Right. It doesn't have a mechanism of contraction.</p> <p>2 There's no muscles in it. It doesn't -- there's nothing</p> <p>3 about it that would cause it to change its conformation</p> <p>4 on its own.</p> <p>5 Q Do you agree that transvaginal mesh roping increases the</p> <p>6 risk of pain?</p> <p>7 A It can.</p> <p>8 MR. KOOPMANN: Object to form.</p> <p>9 Q (By Mr. DeGreeff) Do you agree that transvaginal mesh</p> <p>10 roping increases scar plate formation?</p> <p>11 A It can also. Although I will say that I've examined</p> <p>12 patients who have what I would presume to be a form of</p> <p>13 roping who are nontender.</p> <p>14 Q Doctor, there's a 10 to 15 percent contraction rate with</p> <p>15 TVT during the healing process; correct?</p> <p>16 A Well, not rate. The -- it's been estimated that the mesh</p> <p>17 will contract by the fibrosis and scarring by the body,</p> <p>18 as it's incorporated. That may -- it's not the mesh</p> <p>19 that's contracting. It's the tissues around it are</p> <p>20 pulling it in.</p> <p>21 Q Doctor, do you know what I'm talking about when I use the</p> <p>22 phrase "mesh contraction"?</p> <p>23 A No.</p> <p>24 Q Okay.</p> <p>25 A Not as you explain it.</p>	<p>1 experience, and I have not personally experienced what</p> <p>2 you're saying, this hypothetical situation.</p> <p>3 Q What is level one evidence?</p> <p>4 A Level one evidence is where you have -- it's the highest</p> <p>5 level of evidence, usually randomized control trials,</p> <p>6 meta-analysis, multiple studies.</p> <p>7 Q You're relying on a lot of literature in your reliance</p> <p>8 list and in all these binders in front of us that's not</p> <p>9 level one evidence, aren't you?</p> <p>10 A It just adds to what your knowledge is of the subject.</p> <p>11 Q I thought you said you relied only on level one evidence?</p> <p>12 A Not only. Certainly -- no one relies only on level one</p> <p>13 evidence. That's just the highest degree of reliability.</p> <p>14 If you look at scientific literature over the last 20</p> <p>15 years, we didn't use meta-analysis in systemic --</p> <p>16 systematic reviews up until maybe the last decade. They</p> <p>17 weren't available.</p> <p>18 Q Doctor, are you a -- you treat women for stress urinary</p> <p>19 incontinence and POP on a daily basis; correct?</p> <p>20 A Yes.</p> <p>21 Q And is it your testimony that you're not able to tell me</p> <p>22 whether you believe that mesh that is folded can increase</p> <p>23 the risk of pain in a woman?</p> <p>24 A What I'm telling you is, I have examined many women who</p> <p>25 have what I presume to be some folding or roping who are</p>

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<p>1 not symptomatic. They're not -- they don't have pain.</p> <p>2 Q Have you examined any that do have pain?</p> <p>3 A Yes.</p> <p>4 Q So it can obviously cause pain; correct?</p> <p>5 MR. KOOPMANN: Objection to form.</p> <p>6 Asked and answered.</p> <p>7 THE WITNESS: The way I would answer</p> <p>8 that is, I examined a patient last week who six months</p> <p>9 ago I did a native plication. No synthetic whatsoever,</p> <p>10 and she has pain. So you can get pain from any surgery.</p> <p>11 MR. DEGREEFF: Move to strike as</p> <p>12 nonresponsive.</p> <p>13 THE WITNESS: It is very responsive.</p> <p>14 Scientifically, that's very responsive.</p> <p>15 Q (By Mr. DeGreeff) Doctor, yes, no, or you can't</p> <p>16 answer --</p> <p>17 A Okay. Then I can't answer your question.</p> <p>18 Q I've got to ask my question first, Doctor.</p> <p>19 Yes, no, or you can't answer: Have you ever seen</p> <p>20 one of your patients with transvaginal mesh that is</p> <p>21 folded -- strike that.</p> <p>22 Yes, no, or you can't answer: Folding of</p> <p>23 transvaginal mesh can increase the risk of pain?</p> <p>24 A I can't answer.</p> <p>25 Q Yes, no, or you can't answer: Transvaginal mesh that is</p>	<p>1 Q Okay. Using that definition, have you ever seen that</p> <p>2 with one of your patients with transvaginal mesh?</p> <p>3 A No, I have not seen it. Because you're -- when you look</p> <p>4 at the vagina, you're seeing vaginal epithelium. You're</p> <p>5 not seeing the mesh. I can't tell what's on the other</p> <p>6 side of the wall and how it's laying in.</p> <p>7 Q In your experience, can mesh contract and cause women</p> <p>8 pain?</p> <p>9 A Scars contract and can cause pain. The mesh doesn't</p> <p>10 contract. The scar that surrounds it can contract.</p> <p>11 Q And the scar exists because of the mesh; correct?</p> <p>12 A Well, the scar exists because of the incision that you</p> <p>13 make to put the mesh in.</p> <p>14 Q So you're saying that a scar plate doesn't form around</p> <p>15 the mesh?</p> <p>16 A Oh, that's -- that's different. There's incorporation,</p> <p>17 which you can call a scar plate. But that doesn't</p> <p>18 necessarily cause pain. You're asking me the potential</p> <p>19 of it, and I don't -- I don't have an answer I can give</p> <p>20 you that is scientifically based. I don't know any</p> <p>21 papers that relate to the specifics of scar and pain and</p> <p>22 the mesh.</p> <p>23 Q As you sit here, you're not aware of any papers that</p> <p>24 relate to pain associated with mesh and scar formation?</p> <p>25 A No. That relate to specific physical findings that</p>
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<p>1 folded increases the risk of scar plate formation?</p> <p>2 MR. KOOPMANN: Objection. Form.</p> <p>3 THE WITNESS: I can't answer.</p> <p>4 Q (By Mr. DeGreeff) Doctor, does -- have you ever seen one</p> <p>5 of your patients with transvaginal mesh that's wrinkled?</p> <p>6 A Well, I don't -- you have to define what wrinkled is.</p> <p>7 Because, when you're examining the patient, you have</p> <p>8 vaginal epithelium. So what is wrinkled?</p> <p>9 Q Doctor, do you iron your shirts sometimes?</p> <p>10 A Not for quite a few years.</p> <p>11 Q Well, does --</p> <p>12 A Do you realize the vagina is rugated? The vagina is</p> <p>13 wrinkled normally. Do you know what rugation is?</p> <p>14 Q I don't spend as much time in the vagina as you do,</p> <p>15 Doctor --</p> <p>16 A But you're asking me specific questions, and I'm trying</p> <p>17 to answer, and you don't accept my answers, so what can I</p> <p>18 do?</p> <p>19 MR. DEGREEFF: Move to strike all of</p> <p>20 that. There's no question pending.</p> <p>21 Q (By Mr. DeGreeff) Doctor, do you understand what</p> <p>22 wrinkling of mesh means?</p> <p>23 A I think I do.</p> <p>24 Q What do you think it means?</p> <p>25 A Where it's not laid flat and it's maybe embrocated.</p>	<p>1 determine -- that you can predict that there is pain.</p> <p>2 Because, when you examine a patient, you can -- you can</p> <p>3 feel induration, thickness of the vaginal epithelium, and</p> <p>4 in some patients they have no symptoms and some may have</p> <p>5 some symptoms. So I can't -- I can't infer to you that</p> <p>6 every time there's scar formation or scar plate</p> <p>7 formation, that it will be painful.</p> <p>8 Q Well, then, you're not listening to my question. My</p> <p>9 question isn't does it happen every time. My question</p> <p>10 is, in your experience, can mesh contract and cause pain</p> <p>11 for women?</p> <p>12 MR. KOOPMANN: Objection. Form.</p> <p>13 THE WITNESS: Again, I don't dis -- I</p> <p>14 disagree that mesh contracts, so I have to answer no.</p> <p>15 Q (By Mr. DeGreeff) Scar plate formation is a -- is a</p> <p>16 known risk associated with TVT; correct?</p> <p>17 MR. KOOPMANN: Objection. Form.</p> <p>18 THE WITNESS: I wouldn't say --</p> <p>19 Q (By Mr. DeGreeff) Hold on, hold on.</p> <p>20 MR. DEGREEFF: What's wrong with the</p> <p>21 form?</p> <p>22 MR. KOOPMANN: I'm not sure what you</p> <p>23 mean by scar plate formation.</p> <p>24 MR. DEGREEFF: Okay. Well, that's not</p> <p>25 a problem with the question. That's a problem with you.</p>

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<p>1 MR. KOOPMANN: Well, I think it's</p> <p>2 vague.</p> <p>3 MR. DEGREEFF: Okay. Well --</p> <p>4 THE WITNESS: Would you define scar</p> <p>5 plate formation.</p> <p>6 Q (By Mr. DeGreeff) Doctor, do you know what a scar plate</p> <p>7 is?</p> <p>8 A Yes.</p> <p>9 Q What is it?</p> <p>10 A Well, it's where you have deposition of cells on both</p> <p>11 sides of an implanted foreign body, mesh, and there's an</p> <p>12 incorporation, and it forms a layer around the synthetic.</p> <p>13 Q Okay. Using your --</p> <p>14 MR. KOOPMANN: Counsel, I don't</p> <p>15 appreciate that last comment on the record. "That's a</p> <p>16 problem with you"?</p> <p>17 MR. DEGREEFF: Yeah. Well, it is.</p> <p>18 MR. KOOPMANN: I think your question</p> <p>19 was vague, and I think you're being rude.</p> <p>20 MR. DEGREEFF: Well --</p> <p>21 MR. KOOPMANN: And if you're going to</p> <p>22 continue to be rude --</p> <p>23 MR. DEGREEFF: Barry, I'm sorry. I'm</p> <p>24 sorry.</p> <p>25 MR. KOOPMANN: -- make comments about</p>	<p>1 and move on.</p> <p>2 Q (By Mr. DeGreeff) Doctor, are you ready?</p> <p>3 A Yes.</p> <p>4 Q Scar plate formation is a known risk -- scar plate, as</p> <p>5 you've defined it, is a known risk associated with TVT;</p> <p>6 correct?</p> <p>7 A I have difficulty answering the question because I don't</p> <p>8 know of it as a known complication. It's not that</p> <p>9 specific. I can't answer your question specifically.</p> <p>10 Q Okay. Doctor, you're -- let's get it in the right form</p> <p>11 for the Court.</p> <p>12 Yes, no, or you can't answer --</p> <p>13 A I can't answer.</p> <p>14 Q I have to ask first, Doctor. Stop -- we can't talk over</p> <p>15 each other. Okay? The court reporter's going to come</p> <p>16 unhinged.</p> <p>17 So, Doctor, yes, no, or you can't answer: Scar</p> <p>18 plate formation is a known risk associated with TVT</p> <p>19 formation [sic]?</p> <p>20 A I can't answer.</p> <p>21 Q Doctor, can we agree that -- do you know whether scar</p> <p>22 plate formation is a possible risk of TVT?</p> <p>23 A It's possible, yes. Is it probable? I don't know.</p> <p>24 MR. DEGREEFF: Okay. Move to strike</p> <p>25 as nonresponsive. Let's try that again.</p>
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<p>1 me because I objected to the form of your question, then</p> <p>2 maybe we'll terminate the deposition because --</p> <p>3 MR. DEGREEFF: I don't -- why don't</p> <p>4 you try to terminate the deposition based on what's just</p> <p>5 happened and we'll get the judge on the phone. Is that</p> <p>6 what you want to do, Barry?</p> <p>7 MR. KOOPMANN: I think you should just</p> <p>8 not be rude.</p> <p>9 MR. DEGREEFF: Do you want to get the</p> <p>10 judge on the phone?</p> <p>11 MR. KOOPMANN: I think I'd like to</p> <p>12 have the judge take a look at that last response you</p> <p>13 made.</p> <p>14 MR. DEGREEFF: Well, I'd like to have</p> <p>15 him take a look at your objection that has no basis. So</p> <p>16 if you want to get him on the phone, we can have him look</p> <p>17 at both of them. Because that was a perfectly good</p> <p>18 question to which you objected.</p> <p>19 MR. KOOPMANN: As I'm entitled to do.</p> <p>20 MR. DEGREEFF: You're not entitled to</p> <p>21 object when there's no basis for an objection, Barry.</p> <p>22 MR. KOOPMANN: I stated my basis. And</p> <p>23 you made a rude comment. I'm just stating it for the</p> <p>24 record.</p> <p>25 MR. DEGREEFF: Well, let's be adults</p>	<p>1 Q (By Mr. DeGreeff) Doctor, do you know whether scar plate</p> <p>2 formation is a possible risk of TVT?</p> <p>3 MR. KOOPMANN: Objection. Form.</p> <p>4 THE WITNESS: I don't know.</p> <p>5 Q (By Mr. DeGreeff) Okay. So that's a change to the</p> <p>6 answer you just gave; is that correct?</p> <p>7 A My previous answer was apparently nonresponsive, so I</p> <p>8 gave a different answer.</p> <p>9 Q Well, Doctor, you don't change your answer because I</p> <p>10 think it's nonresponsive. You understand that; right?</p> <p>11 A Well, I can't answer your question with scientific</p> <p>12 validity.</p> <p>13 Q Okay.</p> <p>14 A I don't know the answer.</p> <p>15 Q Okay. Doctor, what percentage of your patients</p> <p>16 experience full relief of their symptoms following</p> <p>17 removal of transvaginal mesh?</p> <p>18 A Well, I have a small cohort of patients. I don't have a</p> <p>19 percentage for you. The majority do.</p> <p>20 Q What constitutes the majority?</p> <p>21 A At least two-thirds.</p> <p>22 Q Doctor, you said, in your experience removing mesh, that</p> <p>23 you often don't remove all of the mesh; is that correct?</p> <p>24 A Correct.</p> <p>25 Q Do you agree that surgeons are often unable to remove the</p>

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<p>1 entirety of the mesh?</p> <p>2 A Well, when you say "unable," or choose not to. I would</p> <p>3 say they choose not to. But it would be very difficult</p> <p>4 to remove 100 percent of it, depending on which mesh</p> <p>5 you're talking about.</p> <p>6 Q It's difficult to remove 100 percent of TVT mesh during a</p> <p>7 removal surgery; is that fair?</p> <p>8 A That is fair.</p> <p>9 Q And oftentimes all of the mesh is not removed?</p> <p>10 A Yes.</p> <p>11 Q And in many of those cases, the mesh will remain forever;</p> <p>12 is that fair?</p> <p>13 A Yes.</p> <p>14 Q And, Doctor, you're aware that, with the TVT-O product,</p> <p>15 you can never safely remove all of the mesh from a woman</p> <p>16 once it's implanted inside of her; correct?</p> <p>17 MR. KOOPMANN: Object to the form.</p> <p>18 THE WITNESS: Well, you used the word</p> <p>19 "safely." It can be removed, and if you're careful in</p> <p>20 removing it, it can be safely removed.</p> <p>21 Q (By Mr. DeGreeff) So you believe that the TVT-O product</p> <p>22 can be safely removed from women once it's implanted</p> <p>23 inside of them?</p> <p>24 A Yes.</p> <p>25 Q Now, Doctor, TVT mesh will produce a chronic inflammatory</p>	<p>1 have seen patients that had chronic pain, that have</p> <p>2 TVT --</p> <p>3 A Yes, a few patients --</p> <p>4 Q -- TVT implants; correct?</p> <p>5 A But if you're stating that this product would cause that,</p> <p>6 then why wouldn't all my patients or the vast majority</p> <p>7 have those symptoms? And I've not seen it.</p> <p>8 Q Doctor, I'm not arguing with you. I was asking you an</p> <p>9 answer to the question, whether you believe TVT will</p> <p>10 produce chronic inflammatory response that will continue</p> <p>11 as long as the mesh is in the body, and I believe your</p> <p>12 answer was no?</p> <p>13 A Correct.</p> <p>14 Q Doctor, do you believe your -- do you perform your TVT-R</p> <p>15 under local or general anesthesia?</p> <p>16 A The majority under general anesthesia. I've performed</p> <p>17 them under local.</p> <p>18 Q Which is more common?</p> <p>19 A Oh, general. But I give local anesthetic at the same</p> <p>20 time I do the surgery.</p> <p>21 Q Doctor, what antioxidants are added to the mesh?</p> <p>22 A I'm not aware of any antioxidants that are added to the</p> <p>23 mesh.</p> <p>24 Q What is the pore size of the Prolene mesh in the TVT</p> <p>25 product?</p>
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<p>1 response that will continue for as long as the mesh is in</p> <p>2 the patient's body; correct?</p> <p>3 MR. KOOPMANN: Objection. Form.</p> <p>4 THE WITNESS: No.</p> <p>5 Q (By Mr. DeGreeff) No. Okay. And is this -- is your</p> <p>6 basis for the answer no what we talked about earlier,</p> <p>7 that you believe it becomes clinically inert after some</p> <p>8 period of time in the body?</p> <p>9 A It becomes quiescent, yes.</p> <p>10 Q You're going to have to define that word for me.</p> <p>11 A Well, there's not an acute inflammatory or chronic</p> <p>12 inflammatory reaction that is ongoing that's clinically</p> <p>13 significant. There may be a macrophage or two that</p> <p>14 happens to visit the area, but it doesn't cause an</p> <p>15 ongoing inflammatory response that's clinically evident.</p> <p>16 Q And you believe that response only occurs on the initial</p> <p>17 implant?</p> <p>18 A Well, the -- there is an acute inflammatory response, and</p> <p>19 that's where the mesh gets incorporated by the body.</p> <p>20 That's part of the healing process of inflammation. If I</p> <p>21 agreed to what you said, then I would be seeing patients</p> <p>22 that I did sling implants 15 years ago who would be</p> <p>23 chronically inflamed and acutely tender, who would be</p> <p>24 having complications now, which I'm not seeing.</p> <p>25 Q Have you seen -- I believe you testified earlier that you</p>	<p>1 A I think it's something like 1379 microns per meter.</p> <p>2 Q Have you ever -- have you heard that pores in mesh</p> <p>3 collapse?</p> <p>4 A No. I don't know how -- what you mean by that.</p> <p>5 Q You've never heard that term?</p> <p>6 A No.</p> <p>7 Q Have you ever heard that pores in transvaginal mesh</p> <p>8 increase the risk for erosion?</p> <p>9 A No.</p> <p>10 Q Have you ever heard that pores in mesh increase the risk</p> <p>11 of bridging fibrosis?</p> <p>12 A You realize a pore is a negative space. It's air.</p> <p>13 Correct?</p> <p>14 Q I do.</p> <p>15 A So the answer is no. I don't think air causes what</p> <p>16 you're saying.</p> <p>17 Q Doctor, do you know if the pores in -- well, never mind.</p> <p>18 Doctor, do you agree that, if pores are not large</p> <p>19 enough, there can be an increased risk of infection?</p> <p>20 A Yes.</p> <p>21 Q Do you agree, if pores are not large enough, it can</p> <p>22 increase the risk of erosion?</p> <p>23 A Well, if they're not large enough, it increases the risk</p> <p>24 of what's called encapsulation, which can either cause</p> <p>25 exposure or erosion.</p>

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<p>1 Q So if pores are not large enough, it increases the risk</p> <p>2 of exposure and erosion?</p> <p>3 A Yes.</p> <p>4 Q Do you agree that, if pores are not large enough, poor</p> <p>5 tissue integration can cause a tape rejection?</p> <p>6 MR. KOOPMANN: Objection. Form.</p> <p>7 THE WITNESS: There is evidence of</p> <p>8 that in the form of a product called ObTape, which had</p> <p>9 very -- very small porosity, and it was multifilament,</p> <p>10 and that's exactly what happened with it.</p> <p>11 Q (By Mr. DeGreeff) Do you agree that you can get an</p> <p>12 infection in small pore mesh that causes extrusion?</p> <p>13 A It's certainly possible. I'd like you to define what is</p> <p>14 small pore, though, because none of the products that</p> <p>15 we're discussing today are small pore.</p> <p>16 Q How do you define small pore?</p> <p>17 A Well, if your porosity is smaller than 50 microns, the</p> <p>18 size of a macrophage, you're certainly small pore.</p> <p>19 Q What is the weight of the mesh used in the TVT products?</p> <p>20 A I think it's about 100 grams per meter square, something</p> <p>21 to that effect.</p> <p>22 Q Why does Ethicon call Prolene mesh old construction mesh?</p> <p>23 A I've never heard them call it that.</p> <p>24 Q You've never heard that term?</p> <p>25 A No.</p>	<p>1 mid-'90s.</p> <p>2 Q Do you know whether --</p> <p>3 A It might have been early to mid-'90s.</p> <p>4 Q Why do you use lighter-weight mesh in the vagina versus</p> <p>5 hernia repair?</p> <p>6 A Well, I think the forces in abdominal wall hernia repair,</p> <p>7 one, are males who may be more strenuous in their</p> <p>8 activities. It's a more forgiving area of the body.</p> <p>9 It's a clean area of the body, not clean contaminated</p> <p>10 like the vagina is.</p> <p>11 So I'm not as worried about the porosity because I</p> <p>12 have been doing hernia mesh repairs for close to 30 years</p> <p>13 and never have had an infection. So I'm not concerned</p> <p>14 about small pores that prevent macrophages from getting</p> <p>15 to bacteria.</p> <p>16 Q Why is it significant that the vagina is what's known as</p> <p>17 a clean contaminated area of the body with regard -- I</p> <p>18 mean, in relation to transvaginal mesh?</p> <p>19 A Well, because there's going to be more bacteria involved</p> <p>20 in the placement of the mesh, and as a result, you have</p> <p>21 more concern about infection.</p> <p>22 Q Why do you use larger pore size mesh in hernia -- I mean</p> <p>23 in the vagina versus hernia repair? Why is that</p> <p>24 important?</p> <p>25 A Well, again, the abdominal wall is not a supple organ</p>
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<p>1 Q What purpose was Prolene mesh developed for originally?</p> <p>2 A Well, originally, it was used as hernia repair.</p> <p>3 Q And --</p> <p>4 A Abdominal wall repair.</p> <p>5 Q And did you have that knowledge before you started using</p> <p>6 polypropylene mesh for trans- -- or for vaginal repair,</p> <p>7 SUI, POP?</p> <p>8 A I used it -- I used hernia mesh ten years before I used</p> <p>9 any of the pelvic organ prolapse or stress urinary</p> <p>10 incontinence mesh.</p> <p>11 Q And was your knowledge regarding Prolene use in hernia</p> <p>12 repairs relevant to your original decision to use it for</p> <p>13 pelvic floor repair?</p> <p>14 A Well, it's relevant, but it's not 100 percent</p> <p>15 translatable. I don't use the same mesh -- the two</p> <p>16 hernias I did today, I don't use the same mesh I would</p> <p>17 put in the vagina.</p> <p>18 Q Okay.</p> <p>19 A It has lower porosity and heavier weight.</p> <p>20 Q So hernia mesh has lower porosity and heavier weight than</p> <p>21 the mesh used in TVT products?</p> <p>22 A Yes.</p> <p>23 Q When was the mesh used in TVT products originally</p> <p>24 developed?</p> <p>25 A I don't know the exact date, but it would be around</p>	<p>1 that on occasion accepts penises, and so you really don't</p> <p>2 need to worry about -- you want something that's kind of</p> <p>3 strong and resilient in the abdominal wall, but you want</p> <p>4 something that's more supple and more biologically</p> <p>5 compatible with the vagina because its -- its use is</p> <p>6 childbearing prior to mesh, and then after that, it's for</p> <p>7 intimacy. So you want something that's as natural as</p> <p>8 possible. The pore size also is how you prevent getting</p> <p>9 infections of the implant.</p> <p>10 Q Any other reasons why you'd rather use the -- any other</p> <p>11 reasons?</p> <p>12 A For large pore or --</p> <p>13 Q Yeah, for the pores.</p> <p>14 A The other is, you want a little more elasticity in the</p> <p>15 vagina than you would in the abdominal wall. So the</p> <p>16 abdominal wall hernia mesh tends to be less -- less</p> <p>17 elastic, stretchable.</p> <p>18 Q So in the vagina, you want -- less stiff mesh is better;</p> <p>19 correct?</p> <p>20 MR. KOOPMANN: Objection. Form.</p> <p>21 THE WITNESS: Well, that is true. But</p> <p>22 there's a point of diminishing return.</p> <p>23 Q (By Mr. DeGreeff) And you want the -- you want it to be</p> <p>24 less stiff because you want it to actually mimic the</p> <p>25 movement of the vaginal tissue; correct?</p>

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<p>1 A Yes. And the industry has been working for the last 15, 2 20 years on developing lighter and lighter weight meshes 3 so that that would be the case. 4 Q Why is it important for mesh to be -- is it important for 5 mesh to be less stiff in relation to preventing 6 complications? 7 A Well, I guess it's a matter of extreme. If something is 8 very stiff and heavy weight, it's not as ideal as it 9 would be if it's less stiff and lighter weight. But 10 again, it's a matter of developing a product and seeing 11 how well it's incorporated and what the physical findings 12 are after. It's a moving target, like any technology. 13 Q Doctor, have you ever been employed by a medical device 14 company? 15 A No. 16 Q Have you acted as a medical device consultant for 17 pharmaceutical companies other than Ethicon and the other 18 one we've already talked about today? 19 A That doesn't make any sense, your question. You said 20 medical device pharmaceutical companies. What do you 21 mean by that? It's one or the other, isn't it? 22 Q Fair question. 23 Have you acted as a -- well, I said pharmaceutical 24 device, which is not correct. 25 A Yeah, that's what I don't understand.</p>	<p>1 A Oh, boy. Something like \$1,500 if it was an out-of-town 2 lecture, and I probably gave two. 3 Q Okay. What about Watson Laboratories? 4 A Not that I'm aware of. I think Watson might have bought 5 Auxilium or Auxilium -- I don't know the relationship 6 between the two. 7 Q Okay. 8 A But I don't recall anything for Watson. 9 Q Any others? 10 A Yes. 11 Q Pharmaceutical or medical device? 12 A Yes. Pfizer long ago, Lilly, Astellas. 13 Q What was that third one? 14 A Astellas. 15 Q How do you spell that? 16 A A-s-t-e-l-l-a-s. 17 Q Any others? 18 A I don't recall any others. 19 Q How long did you -- and then how long did you work for 20 Auxilium? Is that the one we talked about is six months? 21 A I want to say less than a year, about two and a half, 22 three years ago. 23 Q What about Pfizer? How long did you work for them, do 24 consulting for them? 25 A Oh, maybe 15 years ago, and a short period of time. I</p>
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<p>1 Q Have you acted as a consultant for medical device 2 companies other than Ethicon and the other one you talked 3 about earlier? 4 A Well, I guess for one research track, it was called the 5 bion, I did an FDA trial with them. I don't know if 6 they -- I was considered a -- I don't know if I was 7 considered a consultant, just a researcher. 8 Q Were you paid by them? 9 A I was paid to do the study, yes. 10 Q And what was the name of that company? 11 A It was called Advanced Bionics. 12 Q And what was the study related to, what kind of product? 13 A It was a neuromodulating device that was implanted by the 14 pudendal nerve for urge incontinence. 15 Q What about Auxilium? Have you ever been paid by them for 16 anything? 17 A That's a pharmaceutical company. 18 Q Okay. 19 A And yes. To lecture on a -- a medicinal for Peyronie's 20 disease, a collagenase. 21 Q How much did they pay? 22 A Oh, I don't know. Whatever was kind of the standard 23 market rate. I did that probably for less than six 24 months. 25 Q What was the standard market rate?</p>	<p>1 can't remember. Maybe a year or two or three. Back in 2 the late '90s, something like that. 3 Q What product was that on? 4 A That was Viagra. 5 Q Okay. 6 A Lectures on Viagra. 7 Q And what about Lilly? When did you do work for them? 8 A Lilly was two products. One was Cialis, and then the 9 other is Axiron, a testosterone supplement. 10 Q Uh-huh. And Axiron you must have done fairly recently? 11 A The last one was -- got to be two years ago. 12 Q Okay. And did you start working for them when Axiron was 13 first released? 14 A Yes. 15 Q So it would have been 2011 until a couple years ago? Is 16 that what you said? 17 A That sounds right. 18 Q Okay. So probably two or three years? 19 A That would be about right. 20 Q And what were they paying you? 21 A Oh, the same ballpark. I can't -- I would say, if I were 22 going out of town, \$1,500. If it were a short lecture 23 in -- locally, maybe \$500. 24 Q Do you know how much total they paid you over the two to 25 three years?</p>

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<p>1 A No. But you could look it up.</p> <p>2 Q Okay. Online -- are you talking about on the public</p> <p>3 domain?</p> <p>4 A Exactly.</p> <p>5 Q Yeah. What about Pfizer? Do you know how much they paid</p> <p>6 you?</p> <p>7 A Oh, God no. Not much.</p> <p>8 Q What did you do for Astellas?</p> <p>9 A Astellas is two different medications. Lectured to</p> <p>10 physicians about the indications and the use and the side</p> <p>11 effects of the medications.</p> <p>12 Q What are the medications for?</p> <p>13 A One is -- they're both overactive bladder medications.</p> <p>14 Q And when were you working for them?</p> <p>15 A Oh, up until recently. Astellas, I gave lectures for</p> <p>16 last week.</p> <p>17 Q And where was that lecture?</p> <p>18 A In Portland.</p> <p>19 Q And where at in Portland?</p> <p>20 A Well, it was -- one was Hood River Family Practice, and</p> <p>21 the other was a dinner lecture downtown Portland.</p> <p>22 Q Where did you go for dinner?</p> <p>23 A It's called Yama. Yama Sushi.</p> <p>24 Q Sushi?</p> <p>25 A Uh-huh.</p>	<p>1 medical records on the patients for at least five years.</p> <p>2 So it's probably seven years ago, maybe eight years ago.</p> <p>3 Q How long did you work for them?</p> <p>4 A For the length of the study, which was two years.</p> <p>5 Q Do you know what you got paid for that study?</p> <p>6 A That was an investigational study, went into the</p> <p>7 practice. I have no idea. Not much.</p> <p>8 Q Have you also done work for GlaxoSmithKline?</p> <p>9 A I have, yes. Yes.</p> <p>10 Q What did you do for them?</p> <p>11 A Lectured on Levitra.</p> <p>12 Q And -- so that was relatively recently, I'm assuming?</p> <p>13 A Not for -- well, it could have been 2013, '14.</p> <p>14 Q In 2009, did they pay you roughly \$20,000 for speaking</p> <p>15 engagements?</p> <p>16 A Well, probably.</p> <p>17 Q And 2011, did they pay you roughly 8500 bucks for</p> <p>18 speaking engagements?</p> <p>19 A Okay.</p> <p>20 Q Did Eli Lilly in 2011 pay you roughly \$53,000?</p> <p>21 A That -- most likely. That was a big year because they</p> <p>22 had release of both Axiron and Cialis 5 milligram daily,</p> <p>23 so they had two -- two different products.</p> <p>24 Q And that was just what they paid you for speaking. Did</p> <p>25 they also pay about \$10,000 for your travel?</p>
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<p>1 Q And Astellas pay for that?</p> <p>2 A Yes.</p> <p>3 Q Did they pay you for your time?</p> <p>4 A Yes. Well, they didn't yet. I haven't put in my</p> <p>5 invoice, but --</p> <p>6 Q How much will they be paying you?</p> <p>7 A I think 2,000 for both of them combined.</p> <p>8 Q And how long have you been working for Astellas?</p> <p>9 A Well, if you could go back to when Myrbetriq was</p> <p>10 introduced, which I would say would be three to four</p> <p>11 years ago.</p> <p>12 Q Somewhere around three to four years?</p> <p>13 A That's my memory.</p> <p>14 Q Do you know what they've paid you over those three to</p> <p>15 four years?</p> <p>16 A No. But you could look it up.</p> <p>17 Q Do you have a ballpark?</p> <p>18 A No.</p> <p>19 Q What about Advanced Bionics? How long have you been</p> <p>20 working for them?</p> <p>21 A They don't exist. They were acquired by Boston</p> <p>22 Scientific.</p> <p>23 Q Okay.</p> <p>24 A And -- so that was back in -- darn. Well, I know the --</p> <p>25 it's over five years ago because I have to keep the</p>	<p>1 A Well, they reimbursed travel. I don't know what the</p> <p>2 amount is, but --</p> <p>3 Q Well, if they're reimbursing you, they're paying for your</p> <p>4 travel; right?</p> <p>5 A Right.</p> <p>6 Q And did GlaxoSmithKline in 2010 pay you roughly \$23,000</p> <p>7 for speaking?</p> <p>8 A Well, if it says it there, yes.</p> <p>9 Q Did Eli Lilly in 2012 pay you roughly \$52,000 for</p> <p>10 speaking engagements?</p> <p>11 A Again, yes.</p> <p>12 Q And is this -- this is all above and beyond what you were</p> <p>13 being paid by Ethicon, obviously?</p> <p>14 A Yes.</p> <p>15 Q And you said you were no longer working for Ethicon in</p> <p>16 2014?</p> <p>17 A I don't recall -- I keep trying to think of the last</p> <p>18 cadaver lab I did was somewhere around '13 or '14.</p> <p>19 Q In 2014, did Ethicon, for consulting fees, pay you --</p> <p>20 this says at least \$5,000. Is that correct?</p> <p>21 A I just remember one -- one -- that would probably be</p> <p>22 right because that would include airfare. It was a</p> <p>23 cadaver lab in San Diego.</p> <p>24 Q They also paid some -- your travel and lodging?</p> <p>25 A Yes.</p>

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<p>1 Q And you said it was in San Diego?</p> <p>2 A That's my memory.</p> <p>3 Q How long were you there?</p> <p>4 A For -- came in on a Friday, left on a Saturday night.</p> <p>5 Q Where did you stay?</p> <p>6 A I know the -- it was at the University of California San</p> <p>7 Diego, and it was a hotel about a mile away. It might</p> <p>8 have been a Marriott. I don't know.</p> <p>9 Q Did you go out and have a nice dinner?</p> <p>10 A No. I -- my memory is that I didn't because I got in</p> <p>11 late.</p> <p>12 Q Were there Ethicon employees with you at the cadaver lab?</p> <p>13 A There were several there, yes.</p> <p>14 Q And Ethicon paid for your travel?</p> <p>15 A Yes.</p> <p>16 Q And they paid you to do the cadaver lab?</p> <p>17 A Yes.</p> <p>18 Q And was that at your \$3,500 a day --</p> <p>19 A Yes.</p> <p>20 Q -- rate?</p> <p>21 Any other pharmaceutical or medical device companies</p> <p>22 you've worked for that we haven't talked about?</p> <p>23 A I don't recall.</p> <p>24 Q And prior to 2010, 2011, which was the cutoff for what we</p> <p>25 just looked at, do you have any idea how much you were</p>	<p>1 per day. And then they paid for room and travel.</p> <p>2 Q In 1998, would your per day have been 3,000 like it was</p> <p>3 in 2002?</p> <p>4 A No, no. It was more like, I don't know, 1,500 or less.</p> <p>5 Q Okay. In 1998, would you -- well, between 1998 and 2002,</p> <p>6 when you were working for Ethicon on the urology product,</p> <p>7 do you know how much they paid you in total?</p> <p>8 A No.</p> <p>9 Q Any idea?</p> <p>10 A I really don't have an idea.</p> <p>11 Q I think -- so are you still a paid consultant for Ethicon</p> <p>12 today?</p> <p>13 A I haven't signed a contract in the last two years, so I</p> <p>14 would say no.</p> <p>15 Q But you've been receiving payment as an expert for the</p> <p>16 last two years from Ethicon?</p> <p>17 A No, not from Ethicon.</p> <p>18 Q You haven't been an expert -- a litigation expert for</p> <p>19 Ethicon since 2014?</p> <p>20 A Well, I look at it as Johnson & Johnson, the parent</p> <p>21 company. That's who -- that's who the checks come from.</p> <p>22 Q Okay. Who's --</p> <p>23 A I mean, I don't have any contact with Ethicon whatsoever.</p> <p>24 I couldn't tell you one name of anyone who's employed by</p> <p>25 Ethicon.</p>
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<p>1 paid by the pharmaceutical and medical device companies,</p> <p>2 other than Ethicon, that we just talked about?</p> <p>3 A Well, no. I mean, it's -- it varied by the year and it</p> <p>4 varied by the company because what would -- usually you</p> <p>5 have a new medication that becomes available, and the</p> <p>6 companies want to get the information out to different</p> <p>7 physicians.</p> <p>8 And so they employ all around the country</p> <p>9 consultants and lecturers who do a lecture on the</p> <p>10 indications, the risks, the adverse reactions that the</p> <p>11 medications can cause, so then what they're after is to</p> <p>12 try to get physicians to be comfortable with the</p> <p>13 medication and know where -- who are the proper patients</p> <p>14 for it and how to safely use it. So I have been</p> <p>15 available to these companies for that.</p> <p>16 MR. KOOPMANN: I just want to note an</p> <p>17 objection on the form of the last question.</p> <p>18 Q (By Mr. DeGreeff) When you first became a paid</p> <p>19 consultant for Ethicon in 1998, what was your -- how was</p> <p>20 your pay structure set up?</p> <p>21 A Well, I would sign a contract -- my memory is, I would</p> <p>22 sign a contract. It would have a rate on it per day or</p> <p>23 per half day perhaps. Sometimes it was -- you know, for</p> <p>24 evening lectures would be a rate. If it was somewhere</p> <p>25 out of town that involved a lab, then it would be a rate</p>	<p>1 Q Doctor, are you --</p> <p>2 A I haven't made any contacts with anyone from Ethicon.</p> <p>3 Q Do you know who the defendants are in this litigation,</p> <p>4 Doctor?</p> <p>5 A Well, Ethicon is the defendant.</p> <p>6 Q And you're offering your opinions on behalf of Ethicon;</p> <p>7 correct?</p> <p>8 A Yes.</p> <p>9 Q And Ethicon is a part of Johnson & Johnson; correct?</p> <p>10 A Yes, yes. But when you say -- I used to have a</p> <p>11 relationship with Ethicon, but it was -- it was Gynecare,</p> <p>12 which was a -- is a -- one of the companies within</p> <p>13 Ethicon.</p> <p>14 Q Okay. So you're being paid by Johnson & Johnson on</p> <p>15 behalf of Ethicon as a litigation expert; correct?</p> <p>16 A Yes.</p> <p>17 Q And -- what is a preceptor? What do they do?</p> <p>18 A A preceptor is -- you asked -- I think you asked me that</p> <p>19 about three hours ago. A preceptor is a clinician who</p> <p>20 instructs other physicians on -- it could be anything.</p> <p>21 It could be -- we preceptor in the OR for someone who</p> <p>22 wants to learn a new technique, or someone who's</p> <p>23 identified by the surgical committee and then credentials</p> <p>24 committee who may need some retraining or some quality</p> <p>25 improvement. So you have someone who precepts you.</p>

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<p>1 Q And there are different levels of preceptors within</p> <p>2 Ethicon; is that correct?</p> <p>3 A I think there are, yes. Well, there used to be.</p> <p>4 Q So you started off as a local preceptor?</p> <p>5 A Right.</p> <p>6 Q And then you became a regional preceptor; is that</p> <p>7 correct?</p> <p>8 A Right.</p> <p>9 Q And at some point were you what's known as a national</p> <p>10 preceptor?</p> <p>11 A Correct.</p> <p>12 Q When did you become a national preceptor?</p> <p>13 A I couldn't tell you what year it was.</p> <p>14 Q It's my understanding you were a national preceptor</p> <p>15 beginning in 2005. Does that sound correct?</p> <p>16 A If you say so. I mean, it's not -- it's not something</p> <p>17 that I track.</p> <p>18 Q Yeah, I'm only basing it on your prior testimony.</p> <p>19 A Uh-huh.</p> <p>20 Q So does that sound fairly accurate?</p> <p>21 A It probably is, yes.</p> <p>22 Q When did you cease to be a national preceptor for</p> <p>23 Ethicon?</p> <p>24 A Well, I ceased to be with the last lab, which was in San</p> <p>25 Diego. Was that 2014?</p>	<p>1 Q And they paid for you to travel internationally; right?</p> <p>2 A Yes.</p> <p>3 Q They paid for you to travel to Asia; is that right?</p> <p>4 A Yes.</p> <p>5 Q How many times?</p> <p>6 A Twice.</p> <p>7 Q Where in Asia?</p> <p>8 A Beijing, Fuzhou, and Bangkok.</p> <p>9 Q So is that three, or were there two stops?</p> <p>10 A There was two different -- two different trips. One was</p> <p>11 just Beijing, and then the other one was Fuzhou, China,</p> <p>12 and Bangkok.</p> <p>13 Q When did you go to Beijing?</p> <p>14 A Ooh. Something like 2010, 2011, would have been the</p> <p>15 second one. There was two years in a row. That's</p> <p>16 approximate.</p> <p>17 Q Do you know how long your trip to Beijing was?</p> <p>18 A Seventy-two hours.</p> <p>19 Q And they also paid for you to go to Canada; is that</p> <p>20 right?</p> <p>21 A Yes.</p> <p>22 Q How many times?</p> <p>23 A That's a good question. Maybe four times.</p> <p>24 Q Where in Canada?</p> <p>25 A Toronto, at AUGS. Once to Calgary to teach a cadaver lab</p>
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<p>1 Q Correct.</p> <p>2 A But I hadn't done a lab in the previous year that I'm</p> <p>3 aware of, that I can recall.</p> <p>4 Q And during those years, as you became a national</p> <p>5 preceptor, your responsibilities to Ethicon increased;</p> <p>6 correct?</p> <p>7 A Not really. All that increased was, I would be invited</p> <p>8 to more venues that were out of my area.</p> <p>9 Q Okay. So you would have more --</p> <p>10 A There's no increase in responsibility whatsoever.</p> <p>11 Q You'd have more -- you'd have a -- you had an increased</p> <p>12 in prolonged travel; is that fair?</p> <p>13 A Yes.</p> <p>14 Q And you would travel around the nation and</p> <p>15 internationally?</p> <p>16 A Yes.</p> <p>17 Q Ethicon has paid for you to give lectures and do cadaver</p> <p>18 labs in a number of states throughout the U.S.?</p> <p>19 A Yes.</p> <p>20 Q Do you think they've paid for you to go to every state?</p> <p>21 A No.</p> <p>22 Q More than 30?</p> <p>23 A No.</p> <p>24 Q How many, do you think?</p> <p>25 A Maybe a dozen states.</p>	<p>1 at the medical school in Calgary. And at the medical</p> <p>2 school in Vancouver a couple times.</p> <p>3 Q And they also sent you to Europe; is that correct?</p> <p>4 A Only to train.</p> <p>5 Q And which -- which --</p> <p>6 A I learned the Prosima technique in England.</p> <p>7 Q How many times did they send you to England?</p> <p>8 A Once.</p> <p>9 Q How long?</p> <p>10 A Forty-eight hours.</p> <p>11 Q Any other international trips that Ethicon paid for you</p> <p>12 to go on?</p> <p>13 A No.</p> <p>14 Q And Ethicon paid for your travel to all of these places;</p> <p>15 correct?</p> <p>16 A Yes.</p> <p>17 Q And they also paid you your time for being there?</p> <p>18 A Yes.</p> <p>19 Q And would this have been at your \$3,500 a day rate?</p> <p>20 A It varied on what year it was.</p> <p>21 Q Well, as of 2010, your rate was \$3,500 an hour [sic] for</p> <p>22 a full day; correct?</p> <p>23 A Yes. I don't recall what they paid me, though.</p> <p>24 (Exhibit No. 17 marked for</p> <p>25 identification.)</p>

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<p>1 Q (By Mr. DeGreeff) Doctor, I'm going to hand you what</p> <p>2 I've marked as Deposition Exhibit 17.</p> <p>3 Do you recognize that as your consulting agreement</p> <p>4 with Ethicon for the year 2003?</p> <p>5 A It says '02 on it. Oh, would that be for the upcoming</p> <p>6 year?</p> <p>7 Q Yes. I think if you look on the next -- I think if you</p> <p>8 look on Page 3, it says January 1, 2003, to December 31,</p> <p>9 2003. Paragraph 9.</p> <p>10 A Okay.</p> <p>11 Q In bold?</p> <p>12 A Okay.</p> <p>13 Q I'm asking you, is this your contract for -- is this your</p> <p>14 consulting agreement for the year 2003?</p> <p>15 A Yes.</p> <p>16 Q And it's for a one-year term?</p> <p>17 A Yes.</p> <p>18 Q If you look at Paragraph 6 on Page 2, this is what</p> <p>19 essentially boils down to a noncompete that you agreed to</p> <p>20 with Ethicon with regard to not consulting for other</p> <p>21 medical device companies or teaching the use of the</p> <p>22 product that's employed in a retropubic sling for stress</p> <p>23 urinary incontinence; is that correct?</p> <p>24 A That's what it says, yes.</p> <p>25 Q You weren't allowed to be a consultant for anybody else</p>	<p>1 that's a bad product, and then go into the other room and</p> <p>2 say the reverse. It just doesn't make any -- it doesn't</p> <p>3 feel right.</p> <p>4 Q But you've worked for the manufacturers of both Viagra</p> <p>5 and Cialis?</p> <p>6 A That's true.</p> <p>7 Q Competing drugs; correct?</p> <p>8 A That's true. Not simultaneously, though.</p> <p>9 Q Okay. When you gave your presentations, you had to use</p> <p>10 slides prepared by Ethicon?</p> <p>11 A Yes. They went -- went through copyright review.</p> <p>12 Q And they had to approve the materials that you were</p> <p>13 presenting?</p> <p>14 A That's right. So that it would be fair and balanced.</p> <p>15 Q I guess my question was pretty simple. Yes or no or you</p> <p>16 can't answer: Ethicon approved the materials you used</p> <p>17 when giving your presentations?</p> <p>18 MR. KOOPMANN: Objection. Form.</p> <p>19 THE WITNESS: Yes.</p> <p>20 Q (By Mr. DeGreeff) And pursuant to the contract, when you</p> <p>21 were traveling, you had to book your travel reservations</p> <p>22 through Johnson & Johnson's travel department; is that</p> <p>23 right?</p> <p>24 A Yes.</p> <p>25 Q So like -- kind of like having your own free travel</p>
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<p>1 with regard to retropubic slings?</p> <p>2 A Well, that is true. I was also not interested.</p> <p>3 Q And why weren't you interested?</p> <p>4 A Because each product is different and has some advantages</p> <p>5 and some disadvantages, and I never felt as if I could be</p> <p>6 genuine and present different products because it</p> <p>7 would -- I would -- I'd feel conflicted.</p> <p>8 Q Well, now, when you say "products," you're talking about</p> <p>9 you didn't want to work for multiple transvaginal mesh</p> <p>10 manufacturers; correct?</p> <p>11 A Yes.</p> <p>12 Q Because we know you were working for pharmaceutical</p> <p>13 companies at that time?</p> <p>14 A Pharmaceutical, yes. And there was no conflict there.</p> <p>15 But -- and I've attended multiple lectures and cadaver</p> <p>16 labs for the other companies: AMS, Bard, Coloplast. And</p> <p>17 one of the things that I've found kind of annoying is,</p> <p>18 some of the preceptors would denigrate the other</p> <p>19 products, which -- I mean, I didn't agree with what</p> <p>20 their -- their opinions were.</p> <p>21 Q You were a fan of the Ethicon product, though; fair?</p> <p>22 A Yes. I was comfortable with it, and didn't feel as if --</p> <p>23 I just don't feel -- it's kind of an odd thing. It's</p> <p>24 somewhat triable, but you don't -- I don't feel -- I</p> <p>25 can't be in one room and say this is a great product and</p>	<p>1 agent?</p> <p>2 A Only for their -- their training sessions. Not for</p> <p>3 anything personal.</p> <p>4 Q Well, as much as they were flying you around, how did you</p> <p>5 have time to travel independently?</p> <p>6 A I'm not sure I understand what your question is. Is that</p> <p>7 an editorial or is that a question?</p> <p>8 Q That was a question.</p> <p>9 A When I'm not working, I can travel. I don't think</p> <p>10 anything restricts me from going on vacations with my</p> <p>11 family. Is that what you're implying? That I'm so busy</p> <p>12 I don't have time to take vacations and fly outside of</p> <p>13 J&J travel?</p> <p>14 Q No, not at all.</p> <p>15 A Okay.</p> <p>16 Q What I'm saying is that they flew you so many places, why</p> <p>17 did you even need to travel outside of your J&J travel?</p> <p>18 A Well, I guess the answer to that would be how enjoyable</p> <p>19 was it for you to fly from where you flew to here and</p> <p>20 work? Was that enjoyable travel to you? It gets old.</p> <p>21 Q Well, Doctor, let's be honest. Showing up at a resort</p> <p>22 and giving a 15-minute presentation at a box that was set</p> <p>23 up by Ethicon is not exactly grueling, is it?</p> <p>24 A I have never given a 15-minute presentation, and yes, it</p> <p>25 is actually grueling.</p>

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<p>1 Q All right. Well, we'll get to the 15-minute presentation</p> <p>2 here in a little while.</p> <p>3 Doctor, on Page 3, it appears that you were being</p> <p>4 paid -- when you were doing your preceptorships -- this</p> <p>5 is Paragraph 9. When you were doing your preceptorships,</p> <p>6 you were being paid \$1,500 for the first surgeon you</p> <p>7 trained, plus \$500 for each additional surgeon; is that</p> <p>8 correct?</p> <p>9 A Yes.</p> <p>10 Q How many usually showed up?</p> <p>11 A One, two, maybe three at the most.</p> <p>12 Q And what was your -- what was the average number of</p> <p>13 people that showed up?</p> <p>14 A Two.</p> <p>15 Q And what is the purpose of paying you \$500 additional for</p> <p>16 each surgeon that shows up?</p> <p>17 A So the way this would work is, they would fly surgeons in</p> <p>18 either to my hospital venue or my surgery center, and I</p> <p>19 would do the operation. So we would start out with an</p> <p>20 hour didactic lecture before the surgery started, and</p> <p>21 then I would -- I would do the surgery, with them in</p> <p>22 direct observation.</p> <p>23 And then afterwards, we would go over the techniques</p> <p>24 of the procedure and discuss the proper technique and</p> <p>25 avoidance of adverse outcomes. So it would usually take</p>	<p>1 Q What is the difference between consulting activities and</p> <p>2 preceptorships?</p> <p>3 A Consulting activities don't involve surgery.</p> <p>4 Preceptorships normally involve surgery.</p> <p>5 Q So consulting activities are essentially marketing</p> <p>6 activities?</p> <p>7 A You could look at them as marketing activity, but what it</p> <p>8 is, it's basically a lecture on the indications and</p> <p>9 patient selection for the disease states of stress</p> <p>10 incontinence and pelvic organ prolapse, and then the use</p> <p>11 of Ethicon's products for those indications.</p> <p>12 Q And --</p> <p>13 A So marketing, I don't know -- what do you mean by</p> <p>14 marketing?</p> <p>15 Q Well, you were talking about the use of Ethicon's</p> <p>16 products, and you're giving that presentation to other</p> <p>17 doctors who presumably may or may not use the product;</p> <p>18 correct?</p> <p>19 A Well, this is how they decide whether to use the product,</p> <p>20 or if they're already using it, how to perfect their</p> <p>21 outcomes.</p> <p>22 Q And that's what marketing is, isn't it, Doctor, trying to</p> <p>23 convince people to use a product they're not currently</p> <p>24 using?</p> <p>25 A I wouldn't use that term.</p>
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<p>1 four, five hours. It could take longer, depending on how</p> <p>2 many cases that I had scheduled at that one point in</p> <p>3 time. It was a very common practice for how surgeons</p> <p>4 these days learn, outside of residency, new surgical</p> <p>5 techniques.</p> <p>6 Q So the majority of that was them watching you perform</p> <p>7 surgeries that you were already going to perform?</p> <p>8 A Yes.</p> <p>9 Q And you were being paid for performing those surgeries?</p> <p>10 A Yes.</p> <p>11 Q So in addition to that, you were also being paid by</p> <p>12 Ethicon to let people watch?</p> <p>13 A Exactly. It's more than just watch.</p> <p>14 Q And looking at the next paragraph, for consulting</p> <p>15 activities, you were paid \$3,000 for a full day or \$1,500</p> <p>16 per half day; correct?</p> <p>17 A If I was out of town.</p> <p>18 Q Okay. So \$3,000 for -- if you were out of town, per day,</p> <p>19 for a full day; right?</p> <p>20 A Yes.</p> <p>21 Q And for events -- and for if you were away from the</p> <p>22 hospital, \$1,500 for a half day; right?</p> <p>23 A Yes.</p> <p>24 Q Or \$500 per hour for less than three hours?</p> <p>25 A Yes.</p>	<p>1 Q Okay. Well --</p> <p>2 A I wouldn't use that term at all.</p> <p>3 Q What term would you use?</p> <p>4 A I would use this is education.</p> <p>5 Q Did they get any CME credit for it?</p> <p>6 A No. They don't get CME credit because they're not paying</p> <p>7 for the CME. The way the rules are structured, you have</p> <p>8 to pay for your CME in order to get accreditation for it.</p> <p>9 Q Well, they're not paying for it because Ethicon's paying</p> <p>10 for their dinner; right?</p> <p>11 A That's right.</p> <p>12 Q And Ethicon's paying for their travel?</p> <p>13 A That's right.</p> <p>14 Q And Ethicon's paying for them to be there?</p> <p>15 A Yes.</p> <p>16 Q And Ethicon's paying for you to give this presentation to</p> <p>17 them?</p> <p>18 A And that's the industry standard.</p> <p>19 Q And Ethicon's approving your materials?</p> <p>20 A Ethicon is approving the materials because they don't</p> <p>21 want people to go off-label and give bad advice or their</p> <p>22 own personal advice that hasn't been necessarily vetted.</p> <p>23 Q And the materials you're putting up on the screen when</p> <p>24 you're using a PowerPoint say "Ethicon" on them; right?</p> <p>25 A I'm sure some of the slides do.</p>

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<p>1 Q And that presentation is about how to use Ethicon</p> <p>2 transvaginal mesh products?</p> <p>3 A Yes.</p> <p>4 Q And you wouldn't call that marketing?</p> <p>5 A No. I'd call it education.</p> <p>6 Q Couldn't you educate them without using the name Ethicon?</p> <p>7 MR. KOOPMANN: Objection. Form.</p> <p>8 THE WITNESS: Well, I'm -- I'm not</p> <p>9 using the name Ethicon. I'm describing the disease</p> <p>10 states and the surgical techniques to treat.</p> <p>11 Q (By Mr. DeGreeff) Do you tell the people that show up</p> <p>12 for those presentations that you didn't prepare the</p> <p>13 PowerPoint?</p> <p>14 A Yes.</p> <p>15 Q How do you do that? Is that the first thing you say? Do</p> <p>16 you walk up and say --</p> <p>17 A Pretty much, yes.</p> <p>18 Q -- ladies and gentlemen, this isn't my PowerPoint?</p> <p>19 A Exactly. Because I say, because of FDA guidelines, I</p> <p>20 can't change these slides. I can't change the order of</p> <p>21 them. I can't add or delete any of the content because</p> <p>22 that's the AvMed guidelines.</p> <p>23 Q You're telling me that you couldn't put together a</p> <p>24 PowerPoint on any one of those topics and give it to a</p> <p>25 group of people as a doctor who's licensed?</p>	<p>1 Q Can you --</p> <p>2 A And there's precedent for it in Philadelphia, where a</p> <p>3 neurologist was lecturing about off-label use of</p> <p>4 gabapentin, and he -- he was sanctioned and fined.</p> <p>5 Q He was sanctioned for putting together a presentation</p> <p>6 about off-label use; correct?</p> <p>7 A Yes.</p> <p>8 Q Were you giving presentations on off-label use?</p> <p>9 A No, I wasn't.</p> <p>10 Q Well, then, that wouldn't apply, would it?</p> <p>11 A Well, the company wants to be responsible to make sure</p> <p>12 there aren't any cowboys out there who may want to do</p> <p>13 that.</p> <p>14 Q But this come --</p> <p>15 A Because they're liable.</p> <p>16 Q But this comes back to you agreeing to let them do the</p> <p>17 materials. You could do them on your own as long as you</p> <p>18 didn't discuss off-label use; right?</p> <p>19 A No, I cannot -- are you saying -- I did not have</p> <p>20 editorial control of any of the slides. I could say</p> <p>21 anything I want, but the slide set, I can't touch.</p> <p>22 Q But that's because of your contract with Ethicon; right?</p> <p>23 A Yes. And that's because the lawyers at Ethicon wanted to</p> <p>24 stay aboveboard and do everything by the book. I looked</p> <p>25 at it as protecting me as well as protecting them.</p>
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<p>1 A Not if I was doing consulting for Ethicon, no, I</p> <p>2 couldn't.</p> <p>3 Q Yeah, the reason you couldn't do it is because you've</p> <p>4 signed an agreement saying that you won't do it?</p> <p>5 A The reason that agreement is in here is so that the</p> <p>6 company does not violate the FDA guidelines.</p> <p>7 Q Doctor, yes or no: Could you put together a presentation</p> <p>8 on your own and use those materials?</p> <p>9 MR. KOOPMANN: Objection. Form.</p> <p>10 THE WITNESS: I potentially could do</p> <p>11 that, but that would put me in an uncomfortable position.</p> <p>12 Q (By Mr. DeGreeff) Doctor, looking at -- well, it would</p> <p>13 be a breach of contract; right?</p> <p>14 A Well, not -- if -- you mean if I were still doing it for</p> <p>15 Ethicon?</p> <p>16 Q Yes.</p> <p>17 A Well, yes, it would be a breach of contract. But it</p> <p>18 would also be what's considered illegal.</p> <p>19 Q Okay.</p> <p>20 A As a -- according to the FDA.</p> <p>21 Q It would be illegal for you to put together a -- you, as</p> <p>22 a practicing physician, to put together a presentation</p> <p>23 and give it to your peers?</p> <p>24 A Yes. If I'm consulting for either a pharmaceutical or</p> <p>25 medical device company.</p>	<p>1 Q Doctor, next page. It looks like in 2003 you had a</p> <p>2 \$75,000 cap on the amount of money they could -- they</p> <p>3 would pay you for that year; is that correct?</p> <p>4 A That's on Page 3?</p> <p>5 Q Page 4.</p> <p>6 A 4. Yes.</p> <p>7 Q And that never went lower during the years, did it?</p> <p>8 A Well, I never focused on what that number was. I don't</p> <p>9 know. I mean, I did what I did, and whatever the number</p> <p>10 was, was the number.</p> <p>11 Q Doctor, who's Marianne Kaminski?</p> <p>12 A That was the -- I forget her title, but she was, I think,</p> <p>13 director of professional education for Gynecare.</p> <p>14 Q Wasn't she in the marketing department?</p> <p>15 A Oh, I don't -- I really don't know how their corporate</p> <p>16 structure worked.</p> <p>17 Q Did you know Marianne?</p> <p>18 A I met her a couple times. I haven't seen her in, I don't</p> <p>19 know, eight years, ten years.</p> <p>20 (Exhibit No. 18 marked for</p> <p>21 identification.)</p> <p>22 Q (By Mr. DeGreeff) Doctor, I'm going to hand you what</p> <p>23 I've marked as Deposition Exhibit No. 18. I believe</p> <p>24 that's your consulting agreement with Ethicon for the</p> <p>25 year 2004.</p>

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<p>1 Could you confirm whether that's correct or not for</p> <p>2 me?</p> <p>3 (Discussion off the record.)</p> <p>4 Q (By Mr. DeGreeff) All right. Doctor, let me give you</p> <p>5 one that I haven't highlighted.</p> <p>6 Is that your consulting agreement for 2004 with</p> <p>7 Ethicon?</p> <p>8 A I presume it is. I didn't sign it.</p> <p>9 Q I'll represent to you that we asked for your consulting</p> <p>10 agreements. This is what was produced.</p> <p>11 A Okay.</p> <p>12 Q My question about this one is, I think it's essentially</p> <p>13 the same as the one we just discussed, other than, if you</p> <p>14 look at Page 3, it looks like your cap went up to -- the</p> <p>15 cap on what they're willing to pay you for 2004 went up</p> <p>16 to 100,000 from 75,000.</p> <p>17 A Okay.</p> <p>18 Q Is that correct?</p> <p>19 A Yes.</p> <p>20 Q Why did it need to go up?</p> <p>21 A I have no idea. Again, it's a number I never focused on.</p> <p>22 Q Do you remember how much you were paid in 2003?</p> <p>23 A No. But this is for 2004, isn't it?</p> <p>24 Q Yeah. My question was about 2003.</p> <p>25 A Oh, no. I -- if you produced year by year, I could tell</p>	<p>1 Up towards the top.</p> <p>2 A Oh, yeah. Oh, W -- yes, WW Marketing.</p> <p>3 Q So your contract was with the marketing department?</p> <p>4 A I guess so.</p> <p>5 Q And who is Ethicon employee Lesley Fronio? I believe</p> <p>6 she's the VP of marketing.</p> <p>7 A Okay.</p> <p>8 Q Do you know her as that?</p> <p>9 A I remember meeting her once.</p> <p>10 Q And she was the one who signed the contract, your</p> <p>11 agreement; correct?</p> <p>12 A Well, I don't see any signature by her on this.</p> <p>13 Q It's on there.</p> <p>14 A Okay.</p> <p>15 Q Look at -- let's see. If you look in the lower</p> <p>16 right-hand corner --</p> <p>17 A Yes, found it.</p> <p>18 Q And she signed that on behalf of the company?</p> <p>19 A I guess so, yes.</p> <p>20 Q As the VP of marketing?</p> <p>21 A Yes.</p> <p>22 Q And, Doctor, why did this contract date start on 10/11 of</p> <p>23 2010 instead of January of one of the years?</p> <p>24 A I do not know.</p> <p>25 Q Were there times when, if you maxed out the cap under one</p>
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<p>1 you. I mean, if you -- you produced it once before, or</p> <p>2 you -- in the Perry trial, it was produced. I just</p> <p>3 remember seeing it.</p> <p>4 (Exhibit Nos. 19-20 marked for</p> <p>5 identification.)</p> <p>6 Q (By Mr. DeGreeff) Okay. Doctor, I'm going to take this</p> <p>7 one out of order again. Handing you what I've marked as</p> <p>8 Deposition Exhibit 20, and that is a copy of a consulting</p> <p>9 agreement that covers the time period from 10/11 of 2010</p> <p>10 to 10/11 of 2011; is that correct?</p> <p>11 A Yes.</p> <p>12 Q And who is Tom Affeld?</p> <p>13 A I don't know what his title was.</p> <p>14 Q Is he someone that you know?</p> <p>15 A I met him, yes.</p> <p>16 Q How many times have you met him?</p> <p>17 A He was the guy I traveled to China with.</p> <p>18 Q And is he an Ethicon employee?</p> <p>19 A Yes, he is. I can't remember --</p> <p>20 Q Any other Ethicon employees travel to China with you?</p> <p>21 A There was one woman. I can't remember her name.</p> <p>22 Q And if you look down a little bit, the department name</p> <p>23 there says, "Worldwide Marketing"; is that correct?</p> <p>24 A Why am I missing that?</p> <p>25 Q It's on the first page, where it says "Department Name."</p>	<p>1 of the contracts, then they gave you another contract?</p> <p>2 A That may have happened.</p> <p>3 Q Were there times when that happened to you?</p> <p>4 A I'm -- I don't recall, but it could be true.</p> <p>5 Q Do you recall occasions when you maxed out the cap under</p> <p>6 the contract?</p> <p>7 A I think one time. And that was the time that I was doing</p> <p>8 the international travel because it involved more days so</p> <p>9 it cost them more.</p> <p>10 Q Have you ever testified to more than one time that that</p> <p>11 happened?</p> <p>12 A Oh, I don't recall.</p> <p>13 Q Do you remember what year it was when you maxed out the</p> <p>14 cap?</p> <p>15 A Well, if you're saying it was this year, it would have</p> <p>16 been 2010.</p> <p>17 Q Yeah, I mean, I'm not saying it was that year because I</p> <p>18 think there's more than one staggered consulting</p> <p>19 agreement. That's why I was trying to figure out --</p> <p>20 A Oh, I have no idea. It's not something I would</p> <p>21 concentrate on. The thing -- these would come by fax and</p> <p>22 I'd read them over and sign them and send them back.</p> <p>23 Q You keep saying it's not something you would concentrate</p> <p>24 on. Did it not matter to you what you were being paid?</p> <p>25 A I was gratified that they increased what I was being</p>

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<p>1 paid. I never asked to be paid more. I never set any of</p> <p>2 these rates.</p> <p>3 Q Did you look at the contract to see what you were being</p> <p>4 paid before you signed it?</p> <p>5 A Oh, I'm sure I did.</p> <p>6 Q Look at -- will you look at Paragraph 13 of the contract</p> <p>7 for me.</p> <p>8 A Yes.</p> <p>9 Q You weren't allowed to make any representation relating</p> <p>10 to the company's products or clinical outcomes unless</p> <p>11 those representations were reviewed by Ethicon first;</p> <p>12 correct?</p> <p>13 A Yes.</p> <p>14 Q And Ethicon reserved the right to audit your results;</p> <p>15 correct?</p> <p>16 A I don't know what you mean by "results." Every -- every</p> <p>17 lecture cadaver lab that I did, there would be an</p> <p>18 evaluation filled out by the participants, the physicians</p> <p>19 in the audience. And so they would -- the physicians in</p> <p>20 the audience would grade us, and one of the questions</p> <p>21 was, do you feel that there was any undue bias in the</p> <p>22 presentation. So that was one of the questions.</p> <p>23 And then what -- I really think you're barking up</p> <p>24 the wrong tree because the company did not want anyone to</p> <p>25 oversell the product or to increase what the indications</p>	<p>1 A Yes.</p> <p>2 Q And so one of the things is company sponsored speaker</p> <p>3 programs, and you're paid \$3,500 a day for that plus</p> <p>4 out-of-pocket expenses; right?</p> <p>5 A Yes.</p> <p>6 Q And what constitutes a company sponsored speaker program?</p> <p>7 A Well, again, that could be a dinner lecture. It could be</p> <p>8 a cadaver lab with didactic. Those are the two.</p> <p>9 MR. JONES: What time do we have on</p> <p>10 the record so far?</p> <p>11 THE COURT REPORTER: Four hours,</p> <p>12 thirty-six minutes and six seconds.</p> <p>13 Q (By Mr. DeGreeff) And then company sales and training</p> <p>14 presentations, that was something else you did for</p> <p>15 Ethicon; correct?</p> <p>16 A Yes.</p> <p>17 Q And what does that mean, company sales training</p> <p>18 presentations?</p> <p>19 A There were occasions when they would assemble their sales</p> <p>20 representatives, and they would -- even we would do</p> <p>21 cadaver labs to teach them how the device is implanted,</p> <p>22 teach them anatomy, go over the indications and risks,</p> <p>23 and how to perform the surgery so that they were fully</p> <p>24 engaged and understood the anatomy.</p> <p>25 Q And that was essentially you teaching and demonstrating</p>
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<p>1 are for it or overuse it.</p> <p>2 They wanted it to be -- perform safe and reliably,</p> <p>3 and they wanted us to be honest, and never was I asked to</p> <p>4 not say anything about the products that I didn't</p> <p>5 believe, nor not be honest about what my results were or</p> <p>6 what the literature was.</p> <p>7 MR. DEGREEFF: Okay. I'll move to</p> <p>8 strike as nonresponsive, since the question had nothing</p> <p>9 to do with that answer.</p> <p>10 Q (By Mr. DeGreeff) My question is, Doctor, under the</p> <p>11 contract, they reserved the right to audit all of your</p> <p>12 records relating to all of your consulting services?</p> <p>13 A Yes, it's in the contract.</p> <p>14 Q And again, you've -- you've got the same noncompete</p> <p>15 essentially with regard to consulting services for</p> <p>16 others, similar device companies?</p> <p>17 A Yes. And I consider that a blessing.</p> <p>18 Q And, Doctor, if you'll look at the second to last page,</p> <p>19 this is Exhibit A that sets out the services and fees for</p> <p>20 your work; is that correct?</p> <p>21 A Well, it -- does it go from 5 to 8, and then a B?</p> <p>22 Q No.</p> <p>23 MR. KOOPMANN: You said second to the</p> <p>24 last page.</p> <p>25 Q (By Mr. DeGreeff) Oh, third to last page. Sorry.</p>	<p>1 for sales reps; is that correct?</p> <p>2 A Correct.</p> <p>3 Q And those were all Ethicon sales reps?</p> <p>4 A Correct.</p> <p>5 Q And, Doctor, who was your sales rep?</p> <p>6 A Oh, it varied. I had a different one every two years.</p> <p>7 Q Do you remember any of their names?</p> <p>8 A Oh, Chris Morales was one name. Oh, my.</p> <p>9 Q That's okay.</p> <p>10 And, Doctor, you were paid \$3,500 per day to go and</p> <p>11 teach the sales representatives from Ethicon; correct?</p> <p>12 A Yes. That would be a rare event, but yes, a couple times</p> <p>13 I think I did that.</p> <p>14 Q And you also did product -- or participated in product</p> <p>15 review meetings on behalf of Ethicon; is that correct?</p> <p>16 A Yes.</p> <p>17 Q And you were paid \$3,500 a day for that?</p> <p>18 A I don't know if that actually ever happened. Usually it</p> <p>19 would happen along with, say, what's called the TVT</p> <p>20 Summit, where all the proctors and preceptors would meet</p> <p>21 in a location and for usually 48 hours we would go over</p> <p>22 the -- what our experience was, whether we had any issues</p> <p>23 with the training or the products themselves, and then</p> <p>24 occasionally they would ask if we would evaluate maybe a</p> <p>25 new product or a different idea.</p>

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<p>1 Q Okay.</p> <p>2 A So they would pay us that separately.</p> <p>3 Q So I'm confused. You were being paid \$3,500 a day for</p> <p>4 doing that?</p> <p>5 A Well, yes. Well, what I'm saying is, I was already there</p> <p>6 at the meeting, and so it would be a side-off. I don't</p> <p>7 ever remember an entire day -- well, maybe one day where</p> <p>8 I did that, I remember going to Charlotte, North</p> <p>9 Carolina.</p> <p>10 And -- and it was a group -- a focus group on one of</p> <p>11 the products -- I think it was Prosima -- and they were</p> <p>12 just trying to get a sense from around the country, our</p> <p>13 experience, whether we thought it was a good product or</p> <p>14 not.</p> <p>15 Q And, Doctor, did you attend the TVT Summit every year,</p> <p>16 the Ethicon TVT Summit?</p> <p>17 A Not every year, but most years.</p> <p>18 Q And that was -- did all the -- did all the consultants</p> <p>19 for Ethicon attend the Ethicon TVT summit?</p> <p>20 A Well, I don't know what the percentage is. A lot of them</p> <p>21 did.</p> <p>22 Q And did a lot of the sales and marketing people for</p> <p>23 Ethicon also attend?</p> <p>24 A Yes.</p> <p>25 Q Did you have any -- strike that.</p>	<p>1 going through. It's the second to last page. This one</p> <p>2 actually is the second to last page.</p> <p>3 A Well, I read it. I've never done that.</p> <p>4 Q Okay. Do you know what it is?</p> <p>5 A It sounds really marketing.</p> <p>6 Q Okay.</p> <p>7 A Which I don't have an expertise in. So I'm not -- I just</p> <p>8 don't have a . . .</p> <p>9 Q And then the next one, No. 7, says that you were going to</p> <p>10 do some product/market research for them.</p> <p>11 Is that -- did I read that correctly?</p> <p>12 A That's what it says, yes. And again, I don't recall ever</p> <p>13 having done anything like that.</p> <p>14 Q And that was \$3,500 a day?</p> <p>15 A That's per eight hours, yes.</p> <p>16 Q And that was on the -- that was on Ethicon products?</p> <p>17 A Yes.</p> <p>18 Q And this contract, which was the continuation of another</p> <p>19 contract, was for a \$25,000 cap; correct?</p> <p>20 A Correct.</p> <p>21 MR. KOOPMANN: Did you mark a 19 yet?</p> <p>22 MR. DEGREEFF: I did mark a 19. I</p> <p>23 think this might be it. It is. I marked it out of</p> <p>24 order. Good thinking, Barry.</p> <p>25 Q (By Mr. DeGreeff) Doctor, this is what I've marked</p>
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<p>1 And then you also had the --</p> <p>2 (Interruption in proceedings.)</p> <p>3 Q (By Mr. DeGreeff) And then also under this contract, the</p> <p>4 preceptorships and surgical training are still \$3,500 a</p> <p>5 day; is that correct?</p> <p>6 A Yes.</p> <p>7 Q And then also you -- it says that you're going to be</p> <p>8 doing some advisory boards at \$3,500 a day; is that</p> <p>9 right?</p> <p>10 A That's what I was referring to, yes. Although I don't</p> <p>11 ever remember one being an entire day.</p> <p>12 Q So --</p> <p>13 A Actually, I remember one.</p> <p>14 Q So is that different than a product review meeting?</p> <p>15 A I don't even know what a product review meeting is. I</p> <p>16 think they had all kinds of categories for contingencies,</p> <p>17 not that these actually happened.</p> <p>18 Q Okay. And then product evaluations and written materials</p> <p>19 and marketing reviews was also something you were going</p> <p>20 to do for them?</p> <p>21 A Well, if asked, I guess, yes.</p> <p>22 Q And what does that mean?</p> <p>23 A Can you show me where it says that so I could read it</p> <p>24 and --</p> <p>25 Q Sure. It's just No. 6 on the Exhibit A that we were</p>	<p>1 Deposition Exhibit 19.</p> <p>2 And is that another consulting agreement?</p> <p>3 A It appears to be.</p> <p>4 Q And the time period for that is 2/1 of 2011 through 1/31</p> <p>5 of '12; is that correct?</p> <p>6 A Yes.</p> <p>7 Q And that overlaps the contract that we just discussed by</p> <p>8 about eight months; is that right?</p> <p>9 A Okay.</p> <p>10 Q And like we talked about, that's because you exceeded the</p> <p>11 cap on a prior contract; is that correct?</p> <p>12 MR. KOOPMANN: Objection to form.</p> <p>13 THE WITNESS: I'll accept your</p> <p>14 interpretation. I don't know.</p> <p>15 Q (By Mr. DeGreeff) Can you think of another reason why</p> <p>16 you'd have two contracts running simultaneously?</p> <p>17 A No. I'll take your word for that.</p> <p>18 Q And your bills were to be sent to Suzie Chilcote at</p> <p>19 Ethicon, Inc.</p> <p>20 Do you know who that is?</p> <p>21 A I know the name.</p> <p>22 Q Is she in their marketing department?</p> <p>23 A I presume that she would be. I never -- I kind of never</p> <p>24 saw their organizational chart.</p> <p>25 Q Doctor, it's got the same -- I don't want to spend a lot</p>

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<p>1 of time on it. It's got the same general terms as the</p> <p>2 one we just discussed; is that correct?</p> <p>3 MR. KOOPMANN: Objection. Form.</p> <p>4 THE WITNESS: Well, it says 59,500 is</p> <p>5 the cap on this one.</p> <p>6 Q (By Mr. DeGreeff) And that's what I was -- that's what I</p> <p>7 was getting to. It's got the same general terms, with</p> <p>8 the exception of Exhibit A; correct?</p> <p>9 MR. KOOPMANN: Objection. Form.</p> <p>10 THE WITNESS: Yes, I guess so.</p> <p>11 Q (By Mr. DeGreeff) I mean, you're welcome to -- if you</p> <p>12 want to take the time to look at it, I think they're</p> <p>13 pretty much the same contracts with --</p> <p>14 A Well, there's an addendum on the end in terms of</p> <p>15 international travel.</p> <p>16 Q Yeah, and I'm -- okay. To be fair, yeah, I --</p> <p>17 A And then this last one about wound management. The last</p> <p>18 page has specific --</p> <p>19 Q Okay. Yeah. Okay. I see what I'm doing wrong here.</p> <p>20 A Yeah.</p> <p>21 Q The general body of the contract, of the consulting</p> <p>22 agreement, prior to the exhibits and addendums, is</p> <p>23 generally the same as what we just talked about; correct?</p> <p>24 A I think you're right.</p> <p>25 Q And then when we get to Exhibit A, that's the portion of</p>	<p>1 A Never did an entire day. At the most it would have been</p> <p>2 four hours.</p> <p>3 Q So as you sit here, you're saying that you never did a</p> <p>4 preceptorship or surgical training where you were paid</p> <p>5 \$3,500 a day?</p> <p>6 MR. KOOPMANN: Objection. Form.</p> <p>7 THE WITNESS: Well, per day, but</p> <p>8 I'm -- what I'm saying is, I don't recall any -- anytime</p> <p>9 where it was an entire day. Does that make sense to you?</p> <p>10 Maybe four hours? Because I don't remember ever having</p> <p>11 an entire block of surgery for eight hours, where I was</p> <p>12 paid \$3,500.</p> <p>13 Q (By Mr. DeGreeff) Okay.</p> <p>14 A So it's -- it's prorated based on hours.</p> <p>15 Q Okay. And if you'll look at the next page, it looks like</p> <p>16 this one was capped at 59,500; is that correct? This --</p> <p>17 under this contract?</p> <p>18 A Yes.</p> <p>19 Q And this overlaps with the one we just talked about that</p> <p>20 was 25,000?</p> <p>21 A Yes.</p> <p>22 Q Let's look at the --</p> <p>23 (Exhibit No. 21 marked for</p> <p>24 identification.)</p> <p>25 Q (By Mr. DeGreeff) I'm handing you another document,</p>
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<p>1 this exhibit that relates to how and what you were being</p> <p>2 paid and what services you were providing; fair?</p> <p>3 A Yes.</p> <p>4 Q And it looks like you were still being paid \$3,500 an</p> <p>5 hour for a full day for company sponsored speaking</p> <p>6 events?</p> <p>7 A 3500 a day, not per hour.</p> <p>8 Q What did I say? I'm sorry?</p> <p>9 A That would be kind of lawyer's fees.</p> <p>10 Q I meant per day.</p> <p>11 A Maybe your experts.</p> <p>12 MR. DEGREEFF: I'll move to strike as</p> <p>13 nonresponsive.</p> <p>14 Q (By Mr. DeGreeff) So to my reading of this, it's \$3,500</p> <p>15 a day --</p> <p>16 A Yes.</p> <p>17 Q -- for company sponsored programs; correct?</p> <p>18 A Yes.</p> <p>19 Q And for preceptor surgical training, you were still being</p> <p>20 paid \$3,500 a day?</p> <p>21 A I don't think so.</p> <p>22 Q It's No. 4.</p> <p>23 A Yes. I never recall that ever happening, though.</p> <p>24 Q You never did surgical training and got paid \$3,500 for</p> <p>25 it?</p>	<p>1 hopefully not marking the one I've written on. I've</p> <p>2 marked that as Deposition Exhibit 21; is that correct? I</p> <p>3 marked it as 21; right?</p> <p>4 A Yes.</p> <p>5 Q And, Doctor, is this a consulting agreement that you</p> <p>6 entered into with Ethicon for the time period of</p> <p>7 February 1st of 2012 through January 31st of 2013?</p> <p>8 A Yes.</p> <p>9 Q And this was on behalf of Jennifer Paradise.</p> <p>10 Do you know who that is, with Ethicon?</p> <p>11 A The name is familiar.</p> <p>12 Q Do you know her personally?</p> <p>13 A I have met her before, yes. I remember that was an</p> <p>14 unusual last name.</p> <p>15 Q Where would you have met her?</p> <p>16 A At one of the events, one of the cadaver labs, I would</p> <p>17 imagine. Sometimes they would send people out from</p> <p>18 corporate to observe the meetings.</p> <p>19 Q And, Doctor, who's John Parisi? Do you know him?</p> <p>20 A No. It's Paul Parisi.</p> <p>21 Q Paul Parisi. I'm sorry. You don't know him?</p> <p>22 A I do know him.</p> <p>23 Q And who is that?</p> <p>24 A Well, his role here at this time was -- I guess he was</p> <p>25 the head of professional education, is my memory. Before</p>

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<p>1 that, he was -- oh, years before, I can't remember his --</p> <p>2 his role, but I remember him from the early 2000s also.</p> <p>3 Q And, Doctor, I just want to look at Exhibit A with you.</p> <p>4 A Exhibit A. Exhibit A, yes.</p> <p>5 Q It looks like this one is essentially the same in terms</p> <p>6 of your payments, with the exception of the cap is</p> <p>7 \$35,000; is that correct?</p> <p>8 A Yes.</p> <p>9 Q The same \$3,500 a day for full days?</p> <p>10 A Yes.</p> <p>11 Q And again, it shows that you're going to do some company</p> <p>12 sales training presentations to the pharmaceutical reps?</p> <p>13 A If they asked, yes.</p> <p>14 Q And you did some of those in the past; correct?</p> <p>15 A I did.</p> <p>16 Q And we have not been produced some of the consulting</p> <p>17 agreements that you entered into with Ethicon, obviously,</p> <p>18 but fair to say that you had one or more consulting</p> <p>19 agreements with Ethicon for every year from 1998 until</p> <p>20 2014?</p> <p>21 A The early years, I don't recall. I just don't recall.</p> <p>22 But after about 2003, yes.</p> <p>23 Q And, Doctor, in two thousand -- this is a -- I've got in</p> <p>24 my hand, and I've highlighted it, and I don't think I've</p> <p>25 got copies of it, but I'll let you review it if you'd</p>	<p>1 those other consulting agreements is?</p> <p>2 MR. KOOPMANN: I do not know the</p> <p>3 status.</p> <p>4 Q (By Mr. DeGreeff) Do you happen to know what your cap</p> <p>5 dollar figure was for the consulting agreements that you</p> <p>6 would have had in 2005 through 2009?</p> <p>7 A No. I would imagine it would be commensurate with what</p> <p>8 you saw there, maybe 75,000.</p> <p>9 Q And what about for the time period from 2013 to 2015?</p> <p>10 A You mean what the caps were?</p> <p>11 Q Yeah.</p> <p>12 A Well, you just showed me one that said 59,000; right?</p> <p>13 Q You make a good point. I don't know why I have that on</p> <p>14 there.</p> <p>15 Do you have any idea how much you were paid in 2005</p> <p>16 by Ethicon?</p> <p>17 A Not at all.</p> <p>18 Q 2006?</p> <p>19 A None of the years.</p> <p>20 Q Okay. You just don't remember at all how much you were</p> <p>21 paid any year by Ethicon?</p> <p>22 A Correct.</p> <p>23 Q Sometimes you performed -- and we talked about this</p> <p>24 earlier. Sometimes you performed clinical studies for</p> <p>25 Ethicon; correct?</p>
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<p>1 like to. It's a consulting agreement that begins on</p> <p>2 April 22nd of 2013 and goes through April 22nd of 2014.</p> <p>3 Do you remember having a contract during that time</p> <p>4 period?</p> <p>5 A That probably is the last contract.</p> <p>6 Q Okay. And it looks like that the cap on that one is</p> <p>7 45,000, and I'll be happy to show it to you.</p> <p>8 A Okay.</p> <p>9 Q Is that correct?</p> <p>10 A Yes. Looking for my signature. There is none.</p> <p>11 Q And, Doctor, all of these consulting agreements that you</p> <p>12 entered into, those are something that you would have</p> <p>13 received and reviewed before you signed them; is that</p> <p>14 fair?</p> <p>15 A Yes.</p> <p>16 Q And those are -- are those something that you're familiar</p> <p>17 with?</p> <p>18 A Yes.</p> <p>19 Q Do you have copies of any of your consulting agreements</p> <p>20 with Ethicon anywhere?</p> <p>21 A After I stopped working with them, I threw them out.</p> <p>22 MR. DEGREEFF: And, Barry, a question</p> <p>23 for you. I think we requested those a couple of times.</p> <p>24 I think somebody was trying to find them for us.</p> <p>25 Do you have any idea of what the status of getting</p>	<p>1 A The ones we've discussed.</p> <p>2 Q And you entered into separate clinical study agreements</p> <p>3 for those; right?</p> <p>4 A Yes.</p> <p>5 Q And you were -- those were payments that you received in</p> <p>6 addition to the consulting agreements you had with</p> <p>7 Ethicon and other pharmaceutical companies; correct?</p> <p>8 A Yes.</p> <p>9 (Exhibit No. 22 marked for</p> <p>10 identification.)</p> <p>11 Q (By Mr. DeGreeff) Doctor, I'm handing you what I've</p> <p>12 marked as Deposition Exhibit 22.</p> <p>13 Have I so marked that? Doctor, I'm sorry. Have I</p> <p>14 marked that?</p> <p>15 A Oh, yes, you did. 22.</p> <p>16 Q And, Doctor, what is this?</p> <p>17 A This is a clinical study agreement back in 2001, I think.</p> <p>18 Let me see for a fact. December 24th of 2001. And it</p> <p>19 was to do an investigation on the retropubic TVT, using</p> <p>20 the abdominal guides.</p> <p>21 Q And that's the one referenced on your CV?</p> <p>22 A Right.</p> <p>23 Q And that wasn't published?</p> <p>24 A No, not to my awareness, it wasn't published.</p> <p>25 Q It wasn't peer reviewed?</p>

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<p>1 A No.</p> <p>2 Q And it's not about the safety of transvaginal mesh?</p> <p>3 A No.</p> <p>4 Q And, Doctor, if you'll look at Exhibit -- it references</p> <p>5 in the first paragraph there that the protocol should be</p> <p>6 attached as Exhibit A.</p> <p>7 I don't see an Exhibit A. Do you?</p> <p>8 A No. Just a Schedule B.</p> <p>9 Q And this appears to be a fax sent from your office on</p> <p>10 December 26th of 2001, bearing your signature; is that</p> <p>11 correct?</p> <p>12 A Yes.</p> <p>13 Q And I don't see any missing pages from the fax, do you,</p> <p>14 other than 1, which was the cover page?</p> <p>15 A I imagine that is true. Page 1, 2, 3, 4, and then</p> <p>16 Page 5. Yes, it's all complete.</p> <p>17 Q And it goes to Page 6 with the -- I'm talking about the</p> <p>18 fax lines at the top.</p> <p>19 A Oh.</p> <p>20 Q It goes from Page 2, Page 3, Page 4, Page 5, Page 6;</p> <p>21 right?</p> <p>22 A Oh, I see what you're saying. Yes. Exactly.</p> <p>23 Q And Exhibit B that's attached was the schedule of your</p> <p>24 fees for doing the study; correct?</p> <p>25 A Yes.</p>	<p>1 completing several cases.</p> <p>2 Q Two years is not long-term; correct?</p> <p>3 A No.</p> <p>4 Q Okay. I think we're agreeing, but two years is not</p> <p>5 long-term; correct? So I need you to say again --</p> <p>6 A Well --</p> <p>7 Q You said "no" before, which is --</p> <p>8 A So -- but two years at this time, in the year 2002, would</p> <p>9 be relatively long-term since it was only introduced into</p> <p>10 the country about three years prior. So there wasn't a</p> <p>11 long track record of midurethral pubovaginal slings, so</p> <p>12 people weren't thinking of short-, intermediate, or</p> <p>13 long-term data because there was no long-term data.</p> <p>14 There was no intermediate.</p> <p>15 Q Well, this is a study that's pulling together data. You</p> <p>16 could have continued it five years, right, or they could</p> <p>17 have?</p> <p>18 A Oh, they certainly could have, yes.</p> <p>19 Q And five years would have been long-term; right?</p> <p>20 A But this -- this is more -- this is not a study that</p> <p>21 really, I think, was ever intended for peer-reviewed</p> <p>22 publication. It was more of a feasibility study to see</p> <p>23 whether or not this would be something comfortable in our</p> <p>24 hands.</p> <p>25 Q Not a safety study?</p>
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<p>1 Q And they were going to pay you \$3,000 for time and</p> <p>2 attendance at a device training session?</p> <p>3 A Which I did attend in Allentown, Pennsylvania.</p> <p>4 Q And what was that \$3,000 for? To initially learn the TVT</p> <p>5 product?</p> <p>6 A The use of the abdominal guides on a cadaver.</p> <p>7 Q Okay. And then they were also going to pay you for case</p> <p>8 forms and administration associated with the study;</p> <p>9 correct?</p> <p>10 A It looks like, yes, \$125 for each completed patient case</p> <p>11 form.</p> <p>12 Q And then they were also going to pay you \$35 for each</p> <p>13 patient contact and case report form for long-term</p> <p>14 follow-up at six months, one year, and two years</p> <p>15 postoperative; right?</p> <p>16 A Yes.</p> <p>17 Q And why did they stop the follow-up at two years?</p> <p>18 A I don't know.</p> <p>19 Q Is two years long-term, in your mind?</p> <p>20 A No, it's not long-term. But this study was just -- was</p> <p>21 to use the same product with a different approach.</p> <p>22 Actually, the approach is the same. It's just a -- kind</p> <p>23 of a device to gain confidence of urologists to use the</p> <p>24 product and to see if this was something that could be</p> <p>25 performed safely, and they asked for our feedback after</p>	<p>1 A Well --</p> <p>2 Q Safety of the procedure perhaps?</p> <p>3 A Yes.</p> <p>4 Q Not safety of transvaginal mesh?</p> <p>5 A Right.</p> <p>6 Q Do you know how many patients were enrolled in the study?</p> <p>7 A No, I don't. I just know I reported on mine.</p> <p>8 Q Did you -- you know, it says the enrollment of a minimum</p> <p>9 of five and maximum of fifteen patients by each</p> <p>10 investigator, so does that refresh your memory at all as</p> <p>11 to how many you would have had?</p> <p>12 A My memory was, I did the minimum of five.</p> <p>13 Q Is a month enough time to complete that study?</p> <p>14 A Well, at the time I was probably doing two to three</p> <p>15 slings per week, so a month would be -- I'm -- I had a</p> <p>16 potential of maybe ten slings in a month, so it certainly</p> <p>17 would be feasible.</p> <p>18 Q Doctor, why did you fax back Schedule B, but not</p> <p>19 schedule A that contained the protocol?</p> <p>20 A Oh, I have no idea. Oh, well, maybe because it didn't</p> <p>21 have a signature page, and why would they need the</p> <p>22 protocol back again? They already have a copy of it.</p> <p>23 That would be my inference. I don't remember.</p> <p>24 Q Who wrote the protocol?</p> <p>25 A I don't know.</p>

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<p>1 Q Would the protocol have been written by Ethicon?</p> <p>2 A It could have been written by Ethicon, with a lot of</p> <p>3 input from Vince Lucente.</p> <p>4 Q Who's Vince Lucente?</p> <p>5 A He's a urogynecologist in Allentown, Pennsylvania. He</p> <p>6 was kind of the lead on this.</p> <p>7 Q Doctor, I've got one more question on that exhibit. If</p> <p>8 you look at Page 2, Paragraph C, in order to -- in order</p> <p>9 to publish the results of this study, you had to have</p> <p>10 Ethicon's approval; correct?</p> <p>11 A Yes.</p> <p>12 Q And in fact, you had to agree to delete any information</p> <p>13 that they directed you not be published; correct?</p> <p>14 A Apparently, yes.</p> <p>15 Q So Ethicon maintained control over what ultimately got</p> <p>16 published from your clinical study?</p> <p>17 A Well, it says, "The parties agree to meet for the purpose</p> <p>18 of making good faith efforts to discuss and resolve any</p> <p>19 issues or disagreements."</p> <p>20 Q Doctor, it also says, "The principal investigator agrees</p> <p>21 to delete any such information that the sponsor directs</p> <p>22 should not be published pursuant to this paragraph,"</p> <p>23 doesn't it?</p> <p>24 MR. KOOPMANN: Objection. Form.</p> <p>25 THE WITNESS: It does. But I was not</p>	<p>1 looked like roughly 3500 to 4,000?</p> <p>2 A Well, the study -- well, I guess if you include the</p> <p>3 cadaver lab, that was \$3,000 to fly to the other side of</p> <p>4 the country, to take two days to do it. And then if I</p> <p>5 did five cases, that's \$650.</p> <p>6 Q 3600 bucks?</p> <p>7 A Yes.</p> <p>8 (Exhibit No. 23 marked for</p> <p>9 identification.)</p> <p>10 Q (By Mr. DeGreeff) I'm marking Deposition Exhibit 23.</p> <p>11 Doctor, this is another clinical study agreement</p> <p>12 that you entered into with Ethicon; correct?</p> <p>13 A Yes.</p> <p>14 Q And what was this study about?</p> <p>15 A This is a urodynamics device called the Monitorr that --</p> <p>16 what's the year?</p> <p>17 Q It says October 22nd of 2004 was when you entered into</p> <p>18 the agreement.</p> <p>19 A Okay.</p> <p>20 Q It's on the front page.</p> <p>21 A Yes.</p> <p>22 Q Is that correct?</p> <p>23 A Yes.</p> <p>24 Q And is this study referenced on your CV?</p> <p>25 A No.</p>
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<p>1 the principal investigator for this. That was someone</p> <p>2 else. Oh, actually, I am for this --</p> <p>3 Q (By Mr. DeGreeff) You are --</p> <p>4 A -- for my site -- for my site, yes.</p> <p>5 Q So Ethicon controlled whether things got published or</p> <p>6 not; right?</p> <p>7 MR. KOOPMANN: Objection. Form.</p> <p>8 THE WITNESS: It appears that that was</p> <p>9 the case. I just remember presenting at a conference my</p> <p>10 results, my impressions.</p> <p>11 Q (By Mr. DeGreeff) Who prepared that presentation for</p> <p>12 you?</p> <p>13 A Oh, I did. It wasn't a slide set. It was simply a</p> <p>14 podium in front of a group of physicians.</p> <p>15 Q Was that at an Ethicon event?</p> <p>16 A Yes.</p> <p>17 Q Ethicon pay you to do it?</p> <p>18 A Not to present. Just -- they paid my way there.</p> <p>19 Q So Ethicon approved you doing that presentation?</p> <p>20 A They did. But I was completely unscripted, and no one</p> <p>21 asked what I was going to say.</p> <p>22 Q Doctor, that's different than publication of a study,</p> <p>23 isn't it? You understand --</p> <p>24 A It is completely different, right.</p> <p>25 Q How much money were you paid in total for that study? It</p>	<p>1 Q Does this study have anything to do with transvaginal</p> <p>2 mesh?</p> <p>3 A No.</p> <p>4 Q And this study was not published or peer reviewed, was</p> <p>5 it?</p> <p>6 A No.</p> <p>7 Q If you look at the protocol that's Exhibit A to this, why</p> <p>8 do you think that's blank?</p> <p>9 A I have no idea.</p> <p>10 Q Did you agree to do the study without seeing the protocol</p> <p>11 first?</p> <p>12 A I don't recall.</p> <p>13 Q Would you want to see the protocol before you agreed to</p> <p>14 do a study?</p> <p>15 A Well, I remember what the study was trying to accomplish.</p> <p>16 Q Okay. I guess my question's a little different. Would</p> <p>17 you want to see the protocol before you decided to do a</p> <p>18 study?</p> <p>19 A Well, surely. I'm sure I did. It's just not included in</p> <p>20 this contract here.</p> <p>21 Q Well, it's --</p> <p>22 A Because otherwise, how would I --</p> <p>23 Q It's included. There's just nothing on it.</p> <p>24 A How would I know what to do if I didn't have the</p> <p>25 protocol?</p>

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<p>1 Q Well, I guess that's my question. I assume there was a</p> <p>2 protocol at some point --</p> <p>3 A Yes.</p> <p>4 Q -- but did you know about it before you signed the</p> <p>5 document?</p> <p>6 A I would assume that I did.</p> <p>7 Q And what is that assumption based on?</p> <p>8 A Well, because we discussed what we were trying to</p> <p>9 accomplish, and if I'm not mistaken, it was my idea in</p> <p>10 the first place to do the study.</p> <p>11 Q And this is something you went to Ethicon with and said,</p> <p>12 hey, I want you to pay me to do this study?</p> <p>13 A I think that's true.</p> <p>14 Q Who would you have gone to about that?</p> <p>15 A Oh, boy. Whoever -- probably whoever was in charge of</p> <p>16 this -- this device.</p> <p>17 Q Do you remember who that was?</p> <p>18 A No. Uh-uh.</p> <p>19 Q If you look at the --</p> <p>20 A Oh, I can see who signed it.</p> <p>21 Q Yeah, I was going to ask you. Who is that? The person's</p> <p>22 name is Christina Farup, F-a-r-u-p, M.D., at Ethicon.</p> <p>23 Do you know who that is?</p> <p>24 A No.</p> <p>25 Q Look at the last page, if you would. It appears you got</p>	<p>1 as Deposition Exhibit 24.</p> <p>2 This is another clinical study agreement between you</p> <p>3 and Ethicon; is that correct?</p> <p>4 A Yes.</p> <p>5 Q And this was signed on July 6th of 2005, or entered into</p> <p>6 July 6, 2005?</p> <p>7 A Yes.</p> <p>8 Q That's entered into with Ethicon?</p> <p>9 A Yes.</p> <p>10 Q Is this particular study titled "A Clinical Evaluation of</p> <p>11 Gynecare TVT Obturator System for Treatment of Stress</p> <p>12 Urinary Incontinence" included on your CV?</p> <p>13 A No, I don't think so.</p> <p>14 Q Was this ever done?</p> <p>15 A I don't recall having done this study.</p> <p>16 Q Well, there's no protocol attached, again, is there?</p> <p>17 A No. I don't recall doing this study.</p> <p>18 Q Well, the contract is fully executed, isn't it?</p> <p>19 A It is. Yeah, I don't think the study ever happened.</p> <p>20 Q Why not?</p> <p>21 A Oh, I don't remember.</p> <p>22 Q You were going to be paid \$1,410 per completed patient</p> <p>23 correct?</p> <p>24 A Yes, that's what it says.</p> <p>25 Q And if you look at Exhibit B, the enrollment expectations</p>
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<p>1 \$9,750 in time and expenses for doing the study; is that</p> <p>2 right?</p> <p>3 A Yes. And I liked the -- this product. This is a</p> <p>4 urodynamics device that determines -- the hope was, it</p> <p>5 would determine tensioning on slings to see what would be</p> <p>6 the appropriate tensioning based on the strength of the</p> <p>7 urethra, and I liked it enough that I then bought the</p> <p>8 equipment that I used in the study, which they did not</p> <p>9 discount to me.</p> <p>10 Q Okay.</p> <p>11 A So I was paid \$9,700, and I wrote a check for, I think,</p> <p>12 \$6,000 for the -- the Monitorr.</p> <p>13 Q That was your choice; right, Doctor?</p> <p>14 A Oh, of course. But my point, the time and effort in the</p> <p>15 study, I lose money, don't gain money.</p> <p>16 Q And again, Doctor, that was a study that was paid for on</p> <p>17 a separate agreement from your consulting agreement for</p> <p>18 that year?</p> <p>19 A Yes.</p> <p>20 Q And it was paid for in addition to what you were paid by</p> <p>21 other pharmaceutical companies that year?</p> <p>22 A Yes.</p> <p>23 (Exhibit No. 24 marked for</p> <p>24 identification.)</p> <p>25 Q (By Mr. DeGreeff) Doctor, I'm handing you what's marked</p>	<p>1 was to enroll approximately 20 patients; is that right?</p> <p>2 A Yes.</p> <p>3 Q And did you enroll 20 patients?</p> <p>4 A I don't recall enrolling any patients.</p> <p>5 Q If you had enrolled the required 20 patients, or the</p> <p>6 expected 20 patients, you would have been paid roughly</p> <p>7 \$28,000 for the study; correct?</p> <p>8 A That would -- that would be true by math.</p> <p>9 Q And again, it's signed, but there's no protocol attached;</p> <p>10 right?</p> <p>11 A Right.</p> <p>12 Q That's similar to the other clinical study agreement you</p> <p>13 signed without a protocol attached; right?</p> <p>14 A Right.</p> <p>15 Q Actually, both of the other clinical study agreements</p> <p>16 that you signed without attached protocols?</p> <p>17 A Well, probably the reason being is that I -- I've got</p> <p>18 a -- kind of a simple fax machine, and it doesn't take</p> <p>19 large numbers of pages --</p> <p>20 Q Only one of the other --</p> <p>21 A -- successfully.</p> <p>22 Q Only one of the other clinical studies was a fax; right?</p> <p>23 A Well, usually what I would do is fax it and then I would</p> <p>24 send a hard copy to the company.</p> <p>25 Q So the hard copy you sent --</p>

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<p>1 A But I probably didn't include it because it's not part of</p> <p>2 the -- kind of the contract part.</p> <p>3 Q Well, it's expressly incorporated into the contract,</p> <p>4 isn't it?</p> <p>5 A Well, sure. But I'm not an attorney. That's not</p> <p>6 something that I would focus on.</p> <p>7 Q You wouldn't focus on the --</p> <p>8 A I would focus on the protocol to do the protocol.</p> <p>9 Q All right, Doctor. I'm going to -- have we -- did you</p> <p>10 also have a clinical study agreement for the World Health</p> <p>11 study that you did?</p> <p>12 A I would imagine I did on that one, yes.</p> <p>13 Q And --</p> <p>14 A The observational study.</p> <p>15 Q Do you happen to have a copy of that anywhere?</p> <p>16 A No.</p> <p>17 Q Do you remember what your pay structure was for that one?</p> <p>18 A Not at all.</p> <p>19 Q Do you remember what you got paid in total for that one?</p> <p>20 A Not at all.</p> <p>21 Q Doctor, as we sit here, are you incapable of remembering</p> <p>22 what you were paid for anything without us showing you a</p> <p>23 number?</p> <p>24 A It's not something that I keep a record of specifically</p> <p>25 what I'm paid on a yearly basis or any of these specific</p>	<p>1 Q And it looks like in this case it was -- you were doing</p> <p>2 this at the -- what is this, this 2006 Incontinence and</p> <p>3 Pelvic Floor Summit --</p> <p>4 A Yes.</p> <p>5 Q And it was February 10th through 12th of 2006?</p> <p>6 A Yes.</p> <p>7 Q And it was in Salt Lake City, Utah?</p> <p>8 A That's what it says.</p> <p>9 Q And that was an Ethicon event; correct?</p> <p>10 A Yes.</p> <p>11 Q And they do that every year?</p> <p>12 A There was usually one every year.</p> <p>13 Q Did you go to those every year?</p> <p>14 A As many as I could attend.</p> <p>15 Q And they paid -- and Ethicon paid for you and other</p> <p>16 doctors to go to Salt Lake City for a couple days?</p> <p>17 A Right. What we would do is, we would meet -- it would be</p> <p>18 all the preceptors from around the country. We would</p> <p>19 meet and discuss the techniques, the product, and how we</p> <p>20 were doing with it.</p> <p>21 Q And Ethicon paid for your lodging?</p> <p>22 A Yes.</p> <p>23 Q Paid for your travel?</p> <p>24 A Yes.</p> <p>25 Q Paid for all of your food while you were there?</p>
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<p>1 studies because I'm busy in a practice. A check will</p> <p>2 come in, my office manager will deposit it, and I go on.</p> <p>3 I don't focus on it.</p> <p>4 Q So you pay no attention to what -- is it your position</p> <p>5 that you pay no attention to what you're being paid for</p> <p>6 your work for pharmaceutical companies and medical device</p> <p>7 companies?</p> <p>8 MR. KOOPMANN: Objection. Form.</p> <p>9 THE WITNESS: I certainly don't pay</p> <p>10 close attention to it.</p> <p>11 (Exhibit No. 25 marked for</p> <p>12 identification.)</p> <p>13 Q (By Mr. DeGreeff) Doctor, I'm handing you what's been</p> <p>14 marked as Exhibit 25.</p> <p>15 Doctor, my only question about this one essentially</p> <p>16 is, this appears to be an agreement for you to provide</p> <p>17 professional education to, I guess, members of Ethicon;</p> <p>18 is that correct?</p> <p>19 A Yes.</p> <p>20 Q And is this an example of the kind of thing you would</p> <p>21 have done when you were contracted to provide</p> <p>22 professional education?</p> <p>23 A Yes.</p> <p>24 Q And --</p> <p>25 A And this is at a specific time and date.</p>	<p>1 A Yes.</p> <p>2 Q And paid you \$500 to show up and give this talk?</p> <p>3 A Yes.</p> <p>4 Q And some of the other places where they had these pelvic</p> <p>5 floor summits were places like Napa Valley?</p> <p>6 A There was one there, yes.</p> <p>7 Q And did you attend that one?</p> <p>8 A Yes.</p> <p>9 Q And Kissimmee, Florida?</p> <p>10 A No, I didn't attend that one.</p> <p>11 Q And this was -- again, this was above and beyond what you</p> <p>12 were paid under your consulting agreements and your</p> <p>13 clinical study agreements and the money you were paid by</p> <p>14 other pharmaceutical companies?</p> <p>15 MR. KOOPMANN: Objection. Form.</p> <p>16 THE WITNESS: Well, beyond the</p> <p>17 pharmaceutical companies, I don't know whether this is</p> <p>18 tracked as part of my cap per year.</p> <p>19 Q (By Mr. DeGreeff) Well, why would you have a separate</p> <p>20 agreement if you -- if it was under the same consulting</p> <p>21 agreement that you already had?</p> <p>22 A I don't know. Because it's sort of a different event</p> <p>23 than the others. In other words, I'm not going</p> <p>24 specifically to teach a group of physicians in this one.</p> <p>25 This one, we're all -- they're trying to assemble</p>

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<p>1 everyone kind of to -- to look at the product line and</p> <p>2 see how it's doing. We would discuss the perils of the</p> <p>3 surgery, and anyone who had any ideas in terms of better</p> <p>4 techniques.</p> <p>5 (Exhibit No. 26 marked for</p> <p>6 identification.)</p> <p>7 Q (By Mr. DeGreeff) All right. Doctor, I'm handing you</p> <p>8 what I've marked as Deposition Exhibit 26.</p> <p>9 And, Doctor, this appears to be a -- a handout for</p> <p>10 a -- for a -- I guess it's a -- it's kind of a</p> <p>11 presentation thing that Ethicon's sponsoring; is that</p> <p>12 correct?</p> <p>13 A Yes.</p> <p>14 Q And it's occurring in Las Vegas; right?</p> <p>15 A Yes.</p> <p>16 Q And that's July 27th of 2002?</p> <p>17 A Yes.</p> <p>18 Q How many times did -- during your time consulting for</p> <p>19 them, did Ethicon pay for you to go to Las Vegas?</p> <p>20 A My memory is twice, and then they stopped doing that</p> <p>21 venue after the second one, which was probably shortly --</p> <p>22 a year or two within this one. They never went to Las</p> <p>23 Vegas again.</p> <p>24 Q And where did you stay in Las Vegas?</p> <p>25 A At this Embassy Suites.</p>	<p>1 Q On top of everything else that they paid for, for you to</p> <p>2 get there?</p> <p>3 A The food and lodging and travel, yes.</p> <p>4 Q Okay.</p> <p>5 (Exhibit No. 27 marked for</p> <p>6 identification.)</p> <p>7 Q (By Mr. DeGreeff) Doctor, I'm handing you what I've</p> <p>8 marked as Deposition Exhibit 27. And, Doctor, this is an</p> <p>9 email from someone named Shannon Campbell at Ethicon.</p> <p>10 Do you know Shannon Campbell?</p> <p>11 A No.</p> <p>12 Q And it's dated September 16th of 2002; is that correct?</p> <p>13 A Yes.</p> <p>14 Q It references a Fort Worth advanced TV dinner event.</p> <p>15 Do you remember that?</p> <p>16 A I vaguely do.</p> <p>17 Q You were the speaker there?</p> <p>18 A Yes.</p> <p>19 Q And that was a marketing event; right?</p> <p>20 A Well, you could call it that.</p> <p>21 Q And it appears there was 25 physicians and one</p> <p>22 physician's assistant that showed up; correct?</p> <p>23 A I'm sorry; what were the numbers?</p> <p>24 Q It looks like it was 25 physicians and one physician's</p> <p>25 assistant that actually showed up?</p>
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<p>1 Q And was that paid for by Ethicon?</p> <p>2 A Yes.</p> <p>3 Q And they paid for your expenses while you were there?</p> <p>4 A Food.</p> <p>5 Q Paid for your travel?</p> <p>6 A Yes.</p> <p>7 Q Paid for your hotel?</p> <p>8 A Yes.</p> <p>9 Q And did you take your -- anybody in your family with you?</p> <p>10 A No.</p> <p>11 Q And you were a speaker at this; correct?</p> <p>12 A Yes. I was the only speaker, from the looks of it.</p> <p>13 Q Oh, yeah. You were very important at this one?</p> <p>14 A Well, important -- I was very put upon. I did the entire</p> <p>15 day, the entire presentation.</p> <p>16 Q And that would have been put upon at the rate of \$3,500 a</p> <p>17 day -- \$3,000 a day, I guess, at this point?</p> <p>18 A Well, I generate more income than that if I stay in my</p> <p>19 office.</p> <p>20 Q I have no doubt that you make a lot of money, Doctor. My</p> <p>21 question is --</p> <p>22 A Not a lot.</p> <p>23 Q My question is, you made -- you were paid \$3,000 for</p> <p>24 this?</p> <p>25 A Apparently, yes.</p>	<p>1 A Okay.</p> <p>2 Q Is that correct?</p> <p>3 A That -- yes. That's what it says.</p> <p>4 Q And ten of those doctors, it says, had never used TVT,</p> <p>5 right, and in parentheses, it says, "four of which are</p> <p>6 not signed up for training, but are big targets."</p> <p>7 Did I read that correctly?</p> <p>8 A Yes.</p> <p>9 Q What do you think Ethicon means by a big target?</p> <p>10 MR. KOOPMANN: Objection. Form.</p> <p>11 THE WITNESS: I would presume these</p> <p>12 are surgeons who do a lot of pelvic floor or incontinence</p> <p>13 surgery, and they would like to get their business.</p> <p>14 Q (By Mr. DeGreeff) And your role was to help Ethicon get</p> <p>15 them to use Ethicon products; right?</p> <p>16 A Yes.</p> <p>17 Q And if you look further down, it looks like that was at</p> <p>18 Del Frisco's. Is that a steakhouse?</p> <p>19 A That is.</p> <p>20 Q And was that the place where the event was held?</p> <p>21 A Yes, it was.</p> <p>22 Q And did Ethicon pay for everybody's dinner?</p> <p>23 A They did, as far as I know.</p> <p>24 Q And it says -- if you look at the second page, in the</p> <p>25 first paragraph, it says, "The idea is to get the</p>

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<p style="text-align: right;">Page 246</p> <p>1 audience involved early. Then it looks more like their</p> <p>2 presentation" -- meaning yours -- "and not a slide</p> <p>3 presentation we put together."</p> <p>4 Did I read that correctly?</p> <p>5 MR. KOOPMANN: Objection to form.</p> <p>6 THE WITNESS: Okay. Yeah, I see where</p> <p>7 you're -- the sentence.</p> <p>8 Q (By Mr. DeGreeff) That was -- Ethicon put together the</p> <p>9 materials you used at that presentation; right?</p> <p>10 A Say that again? This -- I mean, this is a document I've</p> <p>11 never seen, and I've never had any conversation with any</p> <p>12 of the people involved.</p> <p>13 Q Well, Ethicon always put together your presentations and</p> <p>14 PowerPoints; right?</p> <p>15 A Yes.</p> <p>16 Q Is this considered a preceptorship or a consulting</p> <p>17 activity?</p> <p>18 A This would be a consulting activity.</p> <p>19 Q So in 2003, given that this was in Dallas, I'm assuming</p> <p>20 they had to fly you in for that?</p> <p>21 A Correct.</p> <p>22 Q And they paid for your hotel and your flight and your</p> <p>23 meals and everything else?</p> <p>24 A Yes.</p> <p>25 Q And is that considered a full day out of the office at</p>	<p style="text-align: right;">Page 248</p> <p>1 the same slide deck.</p> <p>2 Q (By Mr. DeGreeff) And you can't remember how much you</p> <p>3 were paid in any year without us showing you a number;</p> <p>4 correct?</p> <p>5 A I don't keep track of it. That's correct.</p> <p>6 Q But sitting here today, you remember what you ate at Del</p> <p>7 Frisco's 14 years ago?</p> <p>8 A I actually do. And I actually remember a conversation I</p> <p>9 had with a urogynecologist there that changed his</p> <p>10 practice, and he was very appreciative and called me</p> <p>11 later on.</p> <p>12 Q Doctor, handing you --</p> <p>13 A Now I remember.</p> <p>14 (Exhibit No. 28 marked for</p> <p>15 identification.)</p> <p>16 Q (By Mr. DeGreeff) Handing you what's been marked as</p> <p>17 Deposition Exhibit 28, this is something called the</p> <p>18 Arrowhead campaign that Ethicon did in May of 2003.</p> <p>19 Have you ever heard of the Arrowhead Campaign?</p> <p>20 A No.</p> <p>21 Q I guess my -- one of my questions is that one of the</p> <p>22 goals was to launch Gynecare TV with blue mesh.</p> <p>23 Do you remember that?</p> <p>24 A Yes.</p> <p>25 Q Why did they change Gynecare TVT to use blue mesh?</p>
<p style="text-align: right;">Page 247</p> <p>1 \$3,000 a day?</p> <p>2 A It's -- right, the one day, yes. I imagine it is, yes.</p> <p>3 Q So you would have been paid --</p> <p>4 A Because it takes -- I mean, if you leave here in the</p> <p>5 morning, you don't get to Dallas until late afternoon.</p> <p>6 Q So you would have been paid \$3,000 a day plus your travel</p> <p>7 and expenses?</p> <p>8 A Yes. But I wasn't paid for the day coming back.</p> <p>9 Q Okay.</p> <p>10 A So I'm paid one day, but it's two days of my time.</p> <p>11 (Exhibit No. 28 marked for</p> <p>12 identification.)</p> <p>13 Q (By Mr. DeGreeff) Doctor, I'm going to hand you what is</p> <p>14 marked Exhibit 28.</p> <p>15 A I ate the salmon. It was terrible.</p> <p>16 Q Doctor, let me ask you something. You just told us --</p> <p>17 and it was funny, that you remember having the salmon at</p> <p>18 Del Frisco's in 2002; is that correct?</p> <p>19 A Yes. Because I don't eat meat.</p> <p>20 Q But you can't remember who prepared the presentation?</p> <p>21 A Oh.</p> <p>22 MR. KOOPMANN: Objection to form.</p> <p>23 THE WITNESS: Well, these</p> <p>24 presentations usually -- they're prepared by corporate,</p> <p>25 and then -- and then all the preceptors lecture out of</p>	<p style="text-align: right;">Page 249</p> <p>1 A Because the -- we -- you talked about these TVT summits.</p> <p>2 The suggestion was made by, I'm not sure who, but some of</p> <p>3 the physicians, that if we ever have to go back in to try</p> <p>4 to -- for over-tensioning and you want to do a revision,</p> <p>5 it would be easier to locate the mesh because it would</p> <p>6 have some color.</p> <p>7 Q So the reason for the -- the reason for the blue mesh was</p> <p>8 so you could find it when you went back in to remove it?</p> <p>9 A Correct.</p> <p>10 Q And, Doctor, at the beginning -- at the top of that, it</p> <p>11 says -- well, strike that.</p> <p>12 Look at Page 2, if you would.</p> <p>13 A Yes.</p> <p>14 Q Under Paragraph 5. Doctor, this is a list of -- or</p> <p>15 approximately -- the A-list -- you see where it says "A</p> <p>16 List"?</p> <p>17 A Yes.</p> <p>18 Q You see your name on the A-list?</p> <p>19 A Yes, I do.</p> <p>20 Q There's six -- there's fifteen other -- other doctors on</p> <p>21 that list; correct?</p> <p>22 A Yes. But my name's not bolded.</p> <p>23 Q Okay. Do you feel slighted by that?</p> <p>24 A I actually do.</p> <p>25 Q Did you know that you were considered an A-lister by</p>

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<p style="text-align: right;">Page 250</p> <p>1 the -- by Ethicon?</p> <p>2 A No. I can give you a -- perhaps a reason why.</p> <p>3 Q Well, they give a reason why. They say -- if you look in</p> <p>4 the paragraph above that, they say that an A-list is a</p> <p>5 doctor who is critical to their business from a strategic</p> <p>6 perspective.</p> <p>7 Do you see that?</p> <p>8 A Yeah.</p> <p>9 Q What do you think that means?</p> <p>10 MR. KOOPMANN: Objection. Form.</p> <p>11 THE WITNESS: Well, it means that --</p> <p>12 if you look at that list, I'm really the only one from</p> <p>13 the Northwest part of the country.</p> <p>14 Q (By Mr. DeGreeff) Well, Doctor, if you look at --</p> <p>15 A And that's strategic.</p> <p>16 Q If you look at that list, there's some other common</p> <p>17 threads, isn't there? Do you know who Mickey Karram is?</p> <p>18 A I do.</p> <p>19 Q Do you know he's an expert for -- that he's an expert for</p> <p>20 Ethicon in this litigation?</p> <p>21 A No, I don't.</p> <p>22 Q Do you know who Vince Lucente is?</p> <p>23 A Yes, I do.</p> <p>24 Q And you know he's an expert for the defense in this</p> <p>25 litigation?</p>	<p style="text-align: right;">Page 252</p> <p>1 A Oh, I don't. I just -- you asked me who I know that's a</p> <p>2 defense expert.</p> <p>3 Q Do you know Brian Feigans?</p> <p>4 A I do.</p> <p>5 Q Do you know he's a defense expert in this mesh</p> <p>6 litigation?</p> <p>7 A I did not know that. He -- I do know that he hasn't used</p> <p>8 the Ethicon products for years and years.</p> <p>9 Q If you look down at the B-listers, which is right below</p> <p>10 that, do you know who David Robinson is?</p> <p>11 A I do.</p> <p>12 Q He eventually became the medical director at Ethicon;</p> <p>13 correct?</p> <p>14 A Correct.</p> <p>15 Q And on that same list is --</p> <p>16 A Also from your area of the country and the salt of the</p> <p>17 earth.</p> <p>18 Q Agreed. And then if you'll look on that same list,</p> <p>19 there's Aaron Kirkemo; right?</p> <p>20 A Yes.</p> <p>21 Q And did he also become the medical director at Ethicon?</p> <p>22 A Of the -- I think the assistant director, yes. Now</p> <p>23 working for Boston Scientific.</p> <p>24 Q As their medical director?</p> <p>25 A I don't know. I just know he moved.</p>
<p style="text-align: right;">Page 251</p> <p>1 A I don't think he is. Because I had a conversation with</p> <p>2 him in October at AUGS, and it didn't sound like he was</p> <p>3 involved.</p> <p>4 Q Doctor, I'll represent to you that he's been a defense</p> <p>5 expert in the transvaginal mesh litigation on behalf of</p> <p>6 Ethicon.</p> <p>7 A Okay.</p> <p>8 Q Doctor, if you'll -- do you know who Joe Carbone is?</p> <p>9 A Yes, I know Joe.</p> <p>10 Q Are you friends with Joe?</p> <p>11 A Friendly. I taught him how to do TVT.</p> <p>12 Q Do you see him on a regular occasion when you go to the</p> <p>13 Ethicon events?</p> <p>14 A I also see John Miklos here, who is the exact opposite.</p> <p>15 He's a defense expert.</p> <p>16 Q Okay. And Joe Carbone is also an expert for the defense,</p> <p>17 isn't he, in this mesh litigation?</p> <p>18 A I don't know that. I don't know actually really who is</p> <p>19 or isn't, other than one person that I know.</p> <p>20 Q And who is that?</p> <p>21 A Michael -- Brian Flynn.</p> <p>22 Q And how do you know Brian Flynn?</p> <p>23 A He also was in the Perry trial.</p> <p>24 Q And maybe I'm missing it. Where do you see Brian Flynn's</p> <p>25 name?</p>	<p style="text-align: right;">Page 253</p> <p>1 MR. KOOPMANN: Minneapolis, also salt</p> <p>2 of the earth.</p> <p>3 THE WITNESS: He is more salt of the</p> <p>4 earth than the other guys.</p> <p>5 MR. JONES: Stipulated.</p> <p>6 MR. DEGREEFF: That's stipulated.</p> <p>7 Q (By Mr. DeGreeff) What do you think about David</p> <p>8 Robinson?</p> <p>9 A Personally, I think he's a wonderful person. He's very</p> <p>10 sincere, he's very honest, and I think very highly of</p> <p>11 him.</p> <p>12 Q What do you think of him as a -- as a professional,</p> <p>13 Doctor?</p> <p>14 A I think he's -- he's excellent.</p> <p>15 Q And what about Aaron Kirkemo professionally?</p> <p>16 A The same. There is none better.</p> <p>17 Q And would you say you respect those two guys as surgeons?</p> <p>18 A Yes, I do.</p> <p>19 Q Do you know them both --</p> <p>20 A David Robinson taught me how to do Prolift.</p> <p>21 Q Who did?</p> <p>22 A David Robinson.</p> <p>23 Q And do you know them both personally?</p> <p>24 A Yes -- well, yes. From spending time with them, yes.</p> <p>25 Q Consider them friends?</p>

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<p>1 A Well, when you say "friends," I've never picked up the</p> <p>2 phone and talked to him on a friendly basis, but I'm</p> <p>3 friendly with him if I'm in the same room with him.</p> <p>4 Q Gotcha.</p> <p>5 A Neither one is really a good dresser, though.</p> <p>6 (Exhibit No. 29 marked for</p> <p>7 identification.)</p> <p>8 Q (By Mr. DeGreeff) All right. Doctor, I'm handing you</p> <p>9 what's been marked as Deposition Exhibit 29.</p> <p>10 Doctor, this looks like a Gynecare TVT advanced</p> <p>11 training dinner. Is that right?</p> <p>12 A Yes.</p> <p>13 Q So it's a flyer for it, I guess. It's not actually the</p> <p>14 dinner; right? No? Okay. Could have been --</p> <p>15 A Oh, well --</p> <p>16 Q Could have been funny.</p> <p>17 All right. So this looks like it was in August --</p> <p>18 on August 20th of 2003?</p> <p>19 A Yes.</p> <p>20 Q Beginning at 6:30?</p> <p>21 A Yes.</p> <p>22 Q And it was at Giuseppe's Cucina Italiana in Pismo Beach</p> <p>23 California?</p> <p>24 A Yes.</p> <p>25 Q And you were the speaker on that?</p>	<p>1 enjoyed teaching, and I enjoyed the networking I had with</p> <p>2 the different surgeons around the country.</p> <p>3 Q Doctor, this was just you showing up at a dinner; right?</p> <p>4 A Yes. But you'd end up having connections like the one</p> <p>5 you -- you said at Del Frisco's, there was a</p> <p>6 urogynecologist there who was not doing hydrodissection</p> <p>7 when he was doing his slings, and he had a high amount of</p> <p>8 blood loss.</p> <p>9 And I explained the advantage of using</p> <p>10 hydrodissection will increase your efficacy and decrease</p> <p>11 morbidity, and he was very grateful for that. And</p> <p>12 anytime I happened to see him in the future at different</p> <p>13 meetings, he would always thank me for that.</p> <p>14 In this particular one, I remember there were</p> <p>15 several -- several gynecologists in the audience who were</p> <p>16 reluctant to do the slings because they didn't quite know</p> <p>17 what the anatomy was, and it gave them an opportunity to</p> <p>18 see what this pubovaginal sling was all about, and it</p> <p>19 can -- it can affect their lives.</p> <p>20 Q And the lives of their patients; right?</p> <p>21 A And improve them, yes. Because it's far better than what</p> <p>22 was being done at the time as far as alternative</p> <p>23 treatments.</p> <p>24 Q So you were able to -- you were able to help persuade</p> <p>25 those doctors to begin using Ethicon mesh products?</p>
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<p>1 A I was.</p> <p>2 Q So you went all the way to California to present at a</p> <p>3 dinner?</p> <p>4 A Yes. A two-hour flight, yes.</p> <p>5 Q And did you have your lodging and travel paid for by</p> <p>6 Ethicon?</p> <p>7 A I did.</p> <p>8 Q And they paid for this dinner for everybody that was</p> <p>9 there?</p> <p>10 A I assume that they did.</p> <p>11 Q And how long did you stay for this?</p> <p>12 A Well, I don't know what day of the week -- oh, Wednesday.</p> <p>13 I'm sure I flew in on Wednesday and left whatever the</p> <p>14 earliest possible flight is on Thursday morning.</p> <p>15 Q Would that count as a full day or a half day?</p> <p>16 A Back then, that was probably just a half day.</p> <p>17 Q So you would have been paid \$1,500 for that?</p> <p>18 A Yes.</p> <p>19 Q Plus your travel and everything?</p> <p>20 A Yes. And I would lose over a day's worth of patients in</p> <p>21 the office.</p> <p>22 Q So, Doctor, you were willing to sacrifice treating</p> <p>23 patients in order to satisfy obligations with a medical</p> <p>24 device company?</p> <p>25 A Well, I never look at it as satisfying obligations. I</p>	<p>1 A Yes. Because I believe in it myself.</p> <p>2 Q So you advocated for it?</p> <p>3 A Yes.</p> <p>4 (Exhibit No. 30 marked for</p> <p>5 identification.)</p> <p>6 Q (By Mr. DeGreeff) Doctor, I'm going to hand you what's</p> <p>7 been marked as --</p> <p>8 MR. DEGREEFF: Do you need to go to</p> <p>9 the bathroom?</p> <p>10 THE WITNESS: Oh, that would be great.</p> <p>11 (Recess from 6:56 p.m. to</p> <p>12 7:03 p.m.)</p> <p>13 EXAMINATION (Continuing)</p> <p>14 BY MR. DEGREEFF:</p> <p>15 Q Doctor, handing you what's been marked as Deposition</p> <p>16 Exhibit 30 --</p> <p>17 MR. DEGREEFF: And I've got one for</p> <p>18 you too, Barry.</p> <p>19 Q (By Mr. DeGreeff) Doctor, this is a -- I think it's a</p> <p>20 flyer for Gynecare University sponsored by Ethicon; is</p> <p>21 that correct?</p> <p>22 A Yes.</p> <p>23 Q This is in -- this was on September 11th of 2004; right?</p> <p>24 A Yes.</p> <p>25 Q And again we're -- you were in Vegas for this one?</p>

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<p>1 A Yes. Or outside -- I think it was -- it was a town</p> <p>2 outside of Las Vegas.</p> <p>3 Q Okay. I was just going by the flyer. It says Las Vegas?</p> <p>4 A Well, it does. What does -- there was a -- I can't</p> <p>5 remember which meeting, whether it was the AUA or AUGS or</p> <p>6 SUFU was held in Las Vegas, and I think this was a day or</p> <p>7 two before.</p> <p>8 Q And does this fall under the consulting agreement or was</p> <p>9 this additional work you would have been doing?</p> <p>10 A No, this would have fallen under the consulting</p> <p>11 agreement.</p> <p>12 Q So would this constitute a full day or a half day?</p> <p>13 A My memory was that that Friday, there was a cadaver lab,</p> <p>14 and this is the Saturday following. It was a two-day</p> <p>15 event. This is only showing one of the days.</p> <p>16 Q So would you have been paid \$3,000 a day for these two?</p> <p>17 A Oh, I don't know.</p> <p>18 Q Well, a full day cadaver lab, under your agreement in</p> <p>19 2004, would have been \$3,000 a day; correct?</p> <p>20 A Right. So the -- this would be a second day, but I --</p> <p>21 this wasn't a cadaver lab, so I'm not sure what I was</p> <p>22 paid for this.</p> <p>23 Q So you would have been paid \$3,000 for the first day and</p> <p>24 something for the second day; right?</p> <p>25 A Right.</p>	<p>1 A Yes.</p> <p>2 Q And this was held September 24th and 25th of 2004; right?</p> <p>3 A Yes.</p> <p>4 Q And Ethicon sponsored this; is that right?</p> <p>5 A Yes.</p> <p>6 Q And Ethicon sponsored the last one we talked about too in</p> <p>7 Vegas, right, the Gynecare University?</p> <p>8 A Yes.</p> <p>9 Q And this, I believe, was at the JW Marriott resort?</p> <p>10 A Yes.</p> <p>11 Q That's a nice resort?</p> <p>12 A It is.</p> <p>13 Q Ethicon paid for your lodging; correct?</p> <p>14 A Yes.</p> <p>15 Q And they paid for your flight there?</p> <p>16 A Yes.</p> <p>17 Q And do you remember whether the 24th and 25th was a</p> <p>18 weekend?</p> <p>19 A It was a Friday and a Saturday, according to this.</p> <p>20 Q Okay. And you were one of the -- well, you actually did</p> <p>21 the dinner presentation, it appears.</p> <p>22 A Right.</p> <p>23 Q All right. And that was from 6:30 to 9:00?</p> <p>24 A Yes.</p> <p>25 Q And do you remember where the --</p>
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<p>1 Q And that was in addition to Ethicon covering your travel</p> <p>2 and lodging?</p> <p>3 A Yes.</p> <p>4 Q Covered your food?</p> <p>5 A Yes.</p> <p>6 Q Did you bring any family with you?</p> <p>7 A No. I've never taken my family to any of these events.</p> <p>8 Q Doctor, I've got to know. Your write-up says that</p> <p>9 after -- this is -- I just want to ask you about this</p> <p>10 because this is one of my favorite sentences ever. It</p> <p>11 says, "After bulking up with the Marines Dr. Grier</p> <p>12 decided to throw his weight around as faculty at the</p> <p>13 Seattle" -- I just want to say that I love that. I don't</p> <p>14 know who wrote that, but I think that that's fantastic.</p> <p>15 I don't -- there's really not a question attached to it,</p> <p>16 other than I think that's fantastic.</p> <p>17 A Interesting. I don't ever remember reading that.</p> <p>18 Q You probably didn't.</p> <p>19 A Uh-uh.</p> <p>20 (Exhibit No. 31 marked for</p> <p>21 identification.)</p> <p>22 Q (By Mr. DeGreeff) Doctor, I'm handing you what's been</p> <p>23 marked as Deposition Exhibit 31. Doctor, this is a flyer</p> <p>24 for the Gynecare Mega Course in Phoenix, Arizona; is that</p> <p>25 correct?</p>	<p>1 A Where it was held?</p> <p>2 Q Yeah.</p> <p>3 A Just in one of the rooms in the -- I don't know what you</p> <p>4 call it, just, you know, a function room.</p> <p>5 Q And did you stay for the full event?</p> <p>6 A I don't recall. I don't recall. I don't recall if I</p> <p>7 came in the night on Saturday.</p> <p>8 Q I mean, it was sponsored --</p> <p>9 A No, I'm sorry, Friday, and then left the following</p> <p>10 morning because I didn't -- everything else is gynecology</p> <p>11 and not urology, so I wasn't involved in any of that, so</p> <p>12 I probably left and went home.</p> <p>13 But I can tell you this: On that last page, I</p> <p>14 didn't do any of these activities.</p> <p>15 Q And none of the -- no one who attended this had to pay</p> <p>16 for it; correct?</p> <p>17 A I'm not aware that they did. I do know that, whenever</p> <p>18 anyone attended, if they wanted to stay an extra day,</p> <p>19 they would have to pay for that.</p> <p>20 Q Above and beyond the two days that was already --</p> <p>21 A Right.</p> <p>22 Q -- going to be paid for?</p> <p>23 A Right. If somebody wanted to stay the -- you know, an</p> <p>24 extra day, they -- that would not be covered.</p> <p>25 Q Well, that would be fair because the conference would be</p>

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<p>1 over; right?</p> <p>2 A Right. Exactly.</p> <p>3 Q And was this a -- there was Ethicon employees at this</p> <p>4 with you?</p> <p>5 A Yes.</p> <p>6 Q Was this made up essentially of Ethicon employees and</p> <p>7 doctors, physicians?</p> <p>8 A Yes.</p> <p>9 Q And this was a -- this was essentially a marketing event;</p> <p>10 right?</p> <p>11 A Well, you say marketing, but these are didactic lectures</p> <p>12 on surgical techniques to manage all of these issues,</p> <p>13 whether it be contraception or dysfunctional uterine</p> <p>14 bleeding, hysteroscopy, morcellation of the uterus, and</p> <p>15 hysterectomy. I was doing urodynamics.</p> <p>16 Q Well, Doctor, for the day, you said Friday,</p> <p>17 September 24th was the day that was relevant to you?</p> <p>18 A No. I was on the Friday too because it was a cadaver</p> <p>19 lab. I just wasn't giving a lecture at the cadaver lab,</p> <p>20 but I attended it, so I would have been what I call a</p> <p>21 cadaver boy.</p> <p>22 Q So would you have been paid \$3,500 for a full day to be</p> <p>23 there?</p> <p>24 A Whatever the rate was at that year. I don't think back</p> <p>25 at this time I was paid 3500. It might have been 2500</p>	<p>1 Q From 3:00 to 3:30, the presentation was about</p> <p>2 demonstration of the TVT-O; correct?</p> <p>3 A Correct.</p> <p>4 Q Again an Ethicon product?</p> <p>5 A Yes.</p> <p>6 Q So fair to say that every single thing -- every single</p> <p>7 presentation on Friday, September 24th of 2004, related</p> <p>8 to Ethicon products?</p> <p>9 A Yes.</p> <p>10 Q Fair to say that that is a -- that constitutes a</p> <p>11 marketing?</p> <p>12 MR. KOOPMANN: Object to form.</p> <p>13 Q (By Mr. DeGreeff) That constitutes marketing for</p> <p>14 Ethicon?</p> <p>15 A I look at this as didactic lectures on these products.</p> <p>16 You call it marketing. That's just not in my lexicon.</p> <p>17 But if you want to presume what Ethicon's perspective on</p> <p>18 it is, I can accept that.</p> <p>19 Q You understand that you're there to help them convince</p> <p>20 people to use their products; correct?</p> <p>21 MR. KOOPMANN: Object to form.</p> <p>22 THE WITNESS: Yes.</p> <p>23 (Exhibit No. 32 marked for</p> <p>24 identification.)</p> <p>25 Q (By Mr. DeGreeff) Doctor, I'm going to hand you what's</p>
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<p>1 back in 2004. Whatever the contract was for 2004.</p> <p>2 Q Yeah, it was 3,000 or three -- 3500, I believe. But</p> <p>3 whatever the rate was, you would have been paid that?</p> <p>4 A Yes.</p> <p>5 Q On top of all the expenses and lodging and etc.?</p> <p>6 A Yes.</p> <p>7 Q And if you look at the first day, on Friday, even though</p> <p>8 you say it's not a marketing event, but the presentation</p> <p>9 at 12:30 is for pelvic floor reconstruction with Gynecare</p> <p>10 and Gynecare mesh -- Gynecare PS; right?</p> <p>11 A Yes.</p> <p>12 Q And those are Ethicon products?</p> <p>13 A Yes.</p> <p>14 Q And then from 1:00 to 1:30, they were talking about</p> <p>15 Gynemesh PS; right?</p> <p>16 A Yes.</p> <p>17 Q That's an Ethicon product?</p> <p>18 A Yes.</p> <p>19 Q From 1:30 to 3:30, the presentation was about Gynecare</p> <p>20 TVT; right?</p> <p>21 A Yes.</p> <p>22 Q And TVT Obturator?</p> <p>23 A Yes.</p> <p>24 Q Both Ethicon products?</p> <p>25 A Yes.</p>	<p>1 been marked as Deposition Exhibit 32. And, Doctor, this</p> <p>2 is an exchange, and we're probably going to start on the</p> <p>3 last page, or the second -- excuse me, the second page,</p> <p>4 which is the start.</p> <p>5 And this looks like it's an email from Lori</p> <p>6 Campbell. Do you know who that is?</p> <p>7 A I remember the name, yes.</p> <p>8 Q And --</p> <p>9 A She was the professional education person for the western</p> <p>10 area.</p> <p>11 Q That's from -- and this exchange occurs on November 8th</p> <p>12 of 2004 initially, right, the first email, which is at</p> <p>13 the bottom of the list?</p> <p>14 A Well --</p> <p>15 Q Are you on the second page, Doctor?</p> <p>16 A Oh, this -- okay.</p> <p>17 Q The second page is the -- at the bottom, it's an email,</p> <p>18 so it works in reverse.</p> <p>19 A Okay. From --</p> <p>20 Q It's from Lori Campbell; right?</p> <p>21 A What is it particularly about this page that you want me</p> <p>22 to talk about?</p> <p>23 Q Are you looking at the second page, Doctor?</p> <p>24 A Is this the second page?</p> <p>25 Q It is. Right here. This is the first email.</p>

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<p>1 A Okay.</p> <p>2 Q And that's from Lori Campbell; correct?</p> <p>3 A From Lori Campbell, yes.</p> <p>4 Q And it's November 8th of 2004?</p> <p>5 A Yes.</p> <p>6 Q And you're copied on that email; correct?</p> <p>7 A I guess so.</p> <p>8 Q Well, you're not actually copied on it. It's sent to</p> <p>9 you; right? You're one of the recipients?</p> <p>10 A Okay. Yes.</p> <p>11 Q And then if you look above that first email, you respond</p> <p>12 on November 12th of 2004 to Lori Campbell; right?</p> <p>13 A Yes.</p> <p>14 Q And then -- and you asked some questions about needing a</p> <p>15 BTA for a cadaver lab in New Brunswick on December 10th</p> <p>16 and 11th --</p> <p>17 A Yes.</p> <p>18 Q -- and should you get it from Erika; right?</p> <p>19 A Yes.</p> <p>20 Q And then if you look at the first page, at the bottom,</p> <p>21 Lori responds to you; right?</p> <p>22 A Okay.</p> <p>23 Q And going back to the second page, because that's where</p> <p>24 that one ends, that email ends, she says, "Are you</p> <p>25 available to proctor her? We've got a budget if you've</p>	<p>1 A Yes.</p> <p>2 Q And again, that's an email that you sent to Lori</p> <p>3 Campbell?</p> <p>4 A Yes.</p> <p>5 Q And why the exclamation mark, Doctor? Were you proud</p> <p>6 that you'd spent \$104,000 on Ethicon products?</p> <p>7 A No. Kind of the opposite. I was shocked that I had</p> <p>8 spent so much money for a product, you know, as far as</p> <p>9 checks are. It just kind of shocked me that it had been</p> <p>10 that much.</p> <p>11 Q Well, was it important to you to be considered a good</p> <p>12 account?</p> <p>13 A No. No. It was a realization that the products are</p> <p>14 expensive.</p> <p>15 Q When does your -- when you say "this year to date," when</p> <p>16 does your fiscal year start?</p> <p>17 A Oh, I don't -- I guess January 1st to December 31st.</p> <p>18 Q And what was the point of this email? What was -- what</p> <p>19 were you trying to tell her with that?</p> <p>20 A I was -- I saw a rolling -- a rolling average of what I</p> <p>21 had spent for slings, and so I was kind of shocked by</p> <p>22 that number. I can't remember what they cost, but that's</p> <p>23 the equivalent of 100 -- probably 100 slings --</p> <p>24 surgeries.</p> <p>25 So I -- just like I don't count what -- what I've</p>
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<p>1 got the time."</p> <p>2 Do you see that?</p> <p>3 MR. KOOPMANN: Wrong page.</p> <p>4 THE WITNESS: Oh. "Are you available</p> <p>5 to proctor" -- oh, okay. Got it.</p> <p>6 Q (By Mr. DeGreeff) And that's an email sent on</p> <p>7 November 15th by Lori Campbell to you. You're a</p> <p>8 recipient on that email?</p> <p>9 A I guess so.</p> <p>10 Q And this is them wanting to pay you to, I guess, do</p> <p>11 something for Dr. Avendanno?</p> <p>12 A Okay. Probably proctor, I would assume.</p> <p>13 Q Okay. So --</p> <p>14 A Oh, yeah. It says it. Am I available to proctor her.</p> <p>15 Q So back on the first page, if you look just above that</p> <p>16 email, there's an email from you back to Lori on</p> <p>17 November 15th; correct?</p> <p>18 A Yes.</p> <p>19 Q And you tell her, "I was signing checks this morning and</p> <p>20 noticed that I've purchased \$104,000 in Gynecare products</p> <p>21 this year to date," with an exclamation mark.</p> <p>22 You see that?</p> <p>23 A Yes.</p> <p>24 Q "I must be considered a good account," exclamation mark.</p> <p>25 You see that?</p>	<p>1 been paid, I normally don't count how many slings that</p> <p>2 I've done in a given year. And so this was toward the</p> <p>3 end of the year, and it looks like I did 100 slings.</p> <p>4 Q Okay. So if you had -- 100 slings in a year, is that a</p> <p>5 lot?</p> <p>6 A Yes.</p> <p>7 Q What percentage of your -- of your practice would that</p> <p>8 have made up for the year 2004?</p> <p>9 A Oh, probably 20, 25 percent of -- of the female side that</p> <p>10 I was doing either a prolapse -- a prolapse repair or</p> <p>11 slings for incontinence.</p> <p>12 Q And then if you'll look at the email right above that,</p> <p>13 it's Lori Campbell responding to you directly on</p> <p>14 November 15th of 2004; correct?</p> <p>15 A Yes.</p> <p>16 Q And if you look at that second paragraph, it says, "Yes,</p> <p>17 you're one of our best customers," triple exclamation</p> <p>18 mark. "Funny you should be looking at that today,"</p> <p>19 period. "Erika and I were just reviewing preceptor</p> <p>20 payout," period. "You've just about maxed out your</p> <p>21 contract for the year," period.</p> <p>22 Did I read that correctly?</p> <p>23 A Yes.</p> <p>24 Q And we talked earlier about the fact that your max amount</p> <p>25 on your consulting agreement in 2004 was \$100,000; right?</p>

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<p>1 A For that year, I don't -- I don't know if it was that</p> <p>2 high for -- this is back in 2004; right?</p> <p>3 Q Yeah. And when we talked about it earlier, the max cap</p> <p>4 in your 2004 contract was \$100,000; correct?</p> <p>5 A I thought that was 2010.</p> <p>6 Q Okay. Well, I can show it to you. Doctor, I will hand</p> <p>7 you what's been marked as Deposition Exhibit 18, which is</p> <p>8 your 2004 consulting agreement, and I'll point you to the</p> <p>9 bottom of Page 3, where it says that your max was</p> <p>10 \$100,000.</p> <p>11 A Okay. Yes, it is.</p> <p>12 Q And so the maxed out your contract for the year she would</p> <p>13 have been talking about would have been your consulting</p> <p>14 agreement; correct?</p> <p>15 A Yes.</p> <p>16 Q And that would have been \$100,000?</p> <p>17 A It looks like that, yes.</p> <p>18 Q And that was in November. You still had another month to</p> <p>19 go?</p> <p>20 A If I was -- there were years where I was maxed out that I</p> <p>21 wouldn't -- I wouldn't do anything else for the rest of</p> <p>22 the year.</p> <p>23 Q How many years were there where you maxed out?</p> <p>24 A I don't know.</p> <p>25 Q More than -- obviously more than one because we've talked</p>	<p>1 Q That's from you to Lori Campbell; right?</p> <p>2 A Oh, to me from Lori --</p> <p>3 Q No. From you to Lori Campbell.</p> <p>4 A From, to.</p> <p>5 Q At 12:56 on November 15th of 2004.</p> <p>6 You see that? It says, "I hope it wasn't another</p> <p>7 one of these under the table arrangements without Tony</p> <p>8 being involved."</p> <p>9 What does that mean?</p> <p>10 A I don't remember who Tony is. Sometimes what would</p> <p>11 happen is, they -- someone would book me to precept and I</p> <p>12 was already -- I already had something else going on.</p> <p>13 Q Next sentence says -- and tell me if I'm reading this</p> <p>14 correct -- quote, I didn't know there was a ceiling for</p> <p>15 yearly honoraria, period, close quotes.</p> <p>16 A Okay.</p> <p>17 Q And what did you mean by that?</p> <p>18 A I didn't -- exactly that. I'd never noticed that -- on</p> <p>19 these contracts that there was a maximum because I never</p> <p>20 considered there -- the issue of there being a maximum.</p> <p>21 Q Because pharmaceutical companies didn't have maximums?</p> <p>22 A It just wasn't something -- you know, as the years built</p> <p>23 and they used me more, that's when I guess I hit some</p> <p>24 maximums. I just didn't -- this is probably the first</p> <p>25 year that that happened, so I wasn't aware of it. I</p>
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<p>1 about two of them; right?</p> <p>2 A I guess so, yeah. It was more than one, I guess.</p> <p>3 Q Well, we've talked about another one where you needed a</p> <p>4 new contract; right?</p> <p>5 A Right.</p> <p>6 Q How many of those were there?</p> <p>7 A I don't know.</p> <p>8 Q Did you max out contracts with the other pharmaceutical</p> <p>9 companies you were working for also?</p> <p>10 A No.</p> <p>11 Q So when we were talking earlier and there were some</p> <p>12 payments and years of \$50,000, that wasn't a max-out on</p> <p>13 your contract?</p> <p>14 A I don't recall whether pharmaceutical companies have a</p> <p>15 maximum.</p> <p>16 Q Okay. So it may just be the pharmaceutical companies are</p> <p>17 willing to pay whatever?</p> <p>18 A I don't know what you mean by "whatever." They have a</p> <p>19 certain rate for their -- for the consulting agreement,</p> <p>20 the lectures. I have no idea whether they have maxes or</p> <p>21 how many people they utilize.</p> <p>22 Q Doctor, looking at the -- your response to Lori Campbell</p> <p>23 from November 15th of 2004 -- which is directly above</p> <p>24 that email; correct?</p> <p>25 A Okay.</p>	<p>1 don't give these contracts to attorneys to review.</p> <p>2 Q Okay. Next sentence says, "I always thought working with</p> <p>3 vaginas and [sic] had unlimited opportunities,</p> <p>4 exclamation mark. "So I've maxed out the Gyne,"</p> <p>5 exclamation mark.</p> <p>6 Did I read that correctly?</p> <p>7 A Well, the Gynecare, yes.</p> <p>8 Q What does maxing out the Gyne mean?</p> <p>9 A It means I maxed out Gynecare, the contract.</p> <p>10 Q And what are the unlimited opportunities you thought</p> <p>11 working with vaginas had?</p> <p>12 A Well, I was -- it was a pun on words, the fact that</p> <p>13 there's a ceiling on the honoraria, that I -- that I --</p> <p>14 it was a surprise to me that there was a -- a limit.</p> <p>15 Q Do you -- reading this on paper, how do you feel about</p> <p>16 the statement, "So I've maxed out the Gyne"?</p> <p>17 A That's what I remember -- how do I read the statement?</p> <p>18 Q No. How do you feel about the fact that that statement</p> <p>19 is --</p> <p>20 A Well, it's a -- it's a joke.</p> <p>21 Q Okay. Well, it's not a joke because it's true; right?</p> <p>22 MR. KOOPMANN: Object to the form.</p> <p>23 THE WITNESS: I'm not sure how you say</p> <p>24 it's true. I did max -- apparently I -- that's when I</p> <p>25 found out I maxed out my honoraria.</p>

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<p>1 Q (By Mr. DeGreeff) Which you referred to as maxing out</p> <p>2 the Gyne.</p> <p>3 A Yeah, Gynecare. That was what they called their company.</p> <p>4 Q And you've maxed out the Gyne in other years too; right?</p> <p>5 MR. KOOPMANN: Object to the form.</p> <p>6 THE WITNESS: If you could show me</p> <p>7 where I have, then I have.</p> <p>8 Q (By Mr. DeGreeff) Well, we talked about it earlier when</p> <p>9 you --</p> <p>10 A A couple times, I guess.</p> <p>11 Q When you maxed -- okay. A couple times.</p> <p>12 This was a very friendly conversation between --</p> <p>13 between you and Lori. Was she a friend of yours?</p> <p>14 A No. She was the professional education coordinator, so</p> <p>15 her job was to get all the -- the proctors, to ask them</p> <p>16 to do cadaver labs or give lectures, that was her job,</p> <p>17 was to manage those of us who were proctors.</p> <p>18 Q Do you typically make jokes about vaginas and maxing out</p> <p>19 the Gyne to people that you don't know very well?</p> <p>20 MR. KOOPMANN: Object to the form.</p> <p>21 THE WITNESS: No.</p> <p>22 (Exhibit No. 33 marked for</p> <p>23 identification.)</p> <p>24 Q (By Mr. DeGreeff) Doctor, I'm handing you what's been</p> <p>25 marked as Deposition Exhibit 33.</p>	<p>1 product?</p> <p>2 A Yes.</p> <p>3 Q And then from 4:30 to 5:00, you were actually on a panel</p> <p>4 with sales reps?</p> <p>5 A That's right.</p> <p>6 Q And then did you go to the off-site event that night?</p> <p>7 A There was a dinner that night, yes.</p> <p>8 Q Do you remember where it was?</p> <p>9 A I do, actually. It was in the Rodeo Hall of Fame.</p> <p>10 Q Would this have been a full-day trip where you got paid</p> <p>11 \$3,500 for your time?</p> <p>12 A I -- it would have been an all-day trip because, by the</p> <p>13 time I got to the airport and got to Denver, then I think</p> <p>14 you have to drive -- is this Colorado Springs -- oh, no,</p> <p>15 I must have flown into Colorado Springs. I don't know</p> <p>16 how I got there, whether -- it definitely wasn't a direct</p> <p>17 flight, so I would have spent half a day in Denver</p> <p>18 airport, both directions.</p> <p>19 Q So it would have been a full day?</p> <p>20 A A full day on Tuesday. But I didn't -- was never paid</p> <p>21 for the following day to get back. So I would lose two</p> <p>22 days for the one day.</p> <p>23 Q Doctor, how is it that you always remember when you</p> <p>24 didn't get paid, but you don't remember how much you did</p> <p>25 get paid?</p>
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<p>1 Doctor, this is a -- this is yet another Ethicon</p> <p>2 meeting that you were a presenter at; correct?</p> <p>3 A Yes.</p> <p>4 Q This was at the Cheyenne Mountain Resort in Colorado</p> <p>5 Springs?</p> <p>6 A Yes.</p> <p>7 Q For three days in January of 2006?</p> <p>8 A I was only there for the one day. I gave one lecture and</p> <p>9 I was out early the next morning.</p> <p>10 Q Okay. I looked this up. This is a very nice resort,</p> <p>11 huh?</p> <p>12 A I couldn't tell you because I literally only remember the</p> <p>13 big lecture hall and my room, and I came in at night and</p> <p>14 I left in the morning. This was -- this was not for</p> <p>15 physicians, as I recall. This was purely their sales</p> <p>16 training. So I just gave one little snippet that night</p> <p>17 or afternoon, had dinner, and then left.</p> <p>18 Q So this is the Ethicon regional meeting for sales</p> <p>19 representatives?</p> <p>20 A Yes.</p> <p>21 Q And you were a speaker -- you couldn't have come in too</p> <p>22 late because you were a speaker at 3:15 on January 17th;</p> <p>23 right?</p> <p>24 A Yes.</p> <p>25 Q And that was a discussion about Prolift, an Ethicon</p>	<p>1 MR. KOOPMANN: Object to form.</p> <p>2 THE WITNESS: No, what I remember, the</p> <p>3 policy was that you got paid for the day. The question</p> <p>4 was when you got -- the next day you got back, I didn't</p> <p>5 mind if it was during the weekend because it wasn't a</p> <p>6 loss of revenue in the office, but one of these -- where</p> <p>7 it's a Tuesday, that means I would lose Wednesday in the</p> <p>8 office getting back.</p> <p>9 Q (By Mr. DeGreeff) Okay. So that would have been -- that</p> <p>10 would have been one where you got paid 3500 plus your</p> <p>11 travel and room and everything else?</p> <p>12 A If that was the rate at the time.</p> <p>13 Q Okay. And this was one where you were there with a bunch</p> <p>14 of Ethicon sales reps and marketing people?</p> <p>15 A Yes.</p> <p>16 (Exhibit No. 34 marked for</p> <p>17 identification.)</p> <p>18 Q (By Mr. DeGreeff) Doctor, I'm going to hand you what</p> <p>19 I've marked as Deposition Exhibit 34.</p> <p>20 Doctor, this appears to be another -- this is</p> <p>21 Urology University, sponsored by Ethicon; is that</p> <p>22 correct?</p> <p>23 A Yes.</p> <p>24 Q And this was at the Silverado Resort in Napa, California?</p> <p>25 A Yes.</p>

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<p>1 Q This is a two-day seminar, or event, I guess.</p> <p>2 A It was all of one day, Saturday.</p> <p>3 Q Well, it says March 10th and 11th; right?</p> <p>4 A Well, people arrived in the -- in the night of Friday,</p> <p>5 and then the seminar was all Saturday.</p> <p>6 Q Is that what you did? Did you arrive on Friday?</p> <p>7 A Yes. Friday night.</p> <p>8 Q And the Silverado Resort in Napa's a really nice place;</p> <p>9 right?</p> <p>10 A It's really long in the tooth.</p> <p>11 Q Well, fortunately, you didn't have to pay for it; right?</p> <p>12 A Correct.</p> <p>13 Q That was paid for by Ethicon?</p> <p>14 A It was. And I worked that entire day. I was the only</p> <p>15 lecturer for the entire day.</p> <p>16 Q I see that. And you got paid for a full day?</p> <p>17 A Yes.</p> <p>18 Q \$3,500?</p> <p>19 A Whatever the rate was at the time. I don't think it was</p> <p>20 3500 in 2006.</p> <p>21 Q Okay. Well, whatever the rate was; right?</p> <p>22 A Yes.</p> <p>23 Q And you got -- did you go to the -- the welcome reception</p> <p>24 on Friday?</p> <p>25 A I don't recall. I know I got in late that day, so I</p>	<p>1 (Exhibit No. 35 marked for</p> <p>2 identification.)</p> <p>3 Q (By Mr. DeGreeff) Doctor, I'm going to hand you what's</p> <p>4 Deposition Exhibit 35.</p> <p>5 Doctor, this is another -- this is the world premier</p> <p>6 event by Ethicon's -- Ethicon women's health and urology</p> <p>7 correct?</p> <p>8 A Yes.</p> <p>9 Q And it's for -- it's May 22nd of 2006?</p> <p>10 A Yes.</p> <p>11 Q And that's in Atlanta?</p> <p>12 A Yes.</p> <p>13 Q And the special guest was Bonnie Blair.</p> <p>14 A I see that.</p> <p>15 Q Multiple time gold medal winner; correct?</p> <p>16 A Yes.</p> <p>17 Q And that was at the -- that was a cocktail reception</p> <p>18 under the stars at the Atlanta Botanical Garden?</p> <p>19 A Apparently. I did not attend, but apparently that's</p> <p>20 where it was.</p> <p>21 Q You did not attend this event?</p> <p>22 A No, not that day, uh-uh.</p> <p>23 Q Okay. If you look at the next page, it says, "In-booth</p> <p>24 activities and presentations"; right?</p> <p>25 A Yes.</p>
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<p>1 don't know if I made the reception or not.</p> <p>2 Q Did you play golf while you were there?</p> <p>3 A No.</p> <p>4 Q Go to the spa?</p> <p>5 A No. I've never played golf in any of these events, and</p> <p>6 I've never gone to a spa at any of these events.</p> <p>7 Q A bunch of -- there was a lot of Ethicon employees at</p> <p>8 this?</p> <p>9 A No.</p> <p>10 Q There wasn't Ethicon employees at the --</p> <p>11 MR. KOOPMANN: Object --</p> <p>12 THE WITNESS: There were -- oh, you're</p> <p>13 talking about this, the urology --</p> <p>14 Q (By Mr. DeGreeff) The one we're talking about, yes, the</p> <p>15 Ethicon women's health and urology, Urology University.</p> <p>16 A There might have been two or three.</p> <p>17 Q Was it essentially another one of these events where</p> <p>18 you're trying to advocate for doctors using the TVT</p> <p>19 products?</p> <p>20 A Well, you could look at it that way. What it was is</p> <p>21 going over different -- different disease states, BPH,</p> <p>22 stress incontinence, vaginal prolapse, and urodynamics,</p> <p>23 and lecturing on each of those, and introducing the</p> <p>24 Ethicon products.</p> <p>25 ////</p>	<p>1 Q This was a deal where Ethicon went and set up a marketing</p> <p>2 booth?</p> <p>3 A This is the AUA national meeting, and there were 150</p> <p>4 exhibitors there, yes. And so one of them was Ethicon.</p> <p>5 Q Okay. And they set up a booth for marketing purposes?</p> <p>6 A Well, yes.</p> <p>7 Q Okay. And at 1:30 on May 20th, you gave a lecture in one</p> <p>8 of those booths, in the Ethicon booth; right?</p> <p>9 A Yes.</p> <p>10 Q Did you wear an Ethicon T-shirt?</p> <p>11 A No.</p> <p>12 Q On Sunday, May 21st, you gave another presentation in the</p> <p>13 Ethicon booth; right?</p> <p>14 A Yes.</p> <p>15 Q And on March -- let's see. And you were doing that --</p> <p>16 strike that.</p> <p>17 You knew that this was a marketing presentation;</p> <p>18 correct?</p> <p>19 A Yes.</p> <p>20 Q One of the other people giving an in-booth presentation</p> <p>21 for Ethicon was Aaron Kirkemo; right?</p> <p>22 A Yes.</p> <p>23 Q He ultimately became the assistant medical director at</p> <p>24 Ethicon?</p> <p>25 A That's correct.</p>

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<p>1 Q And one of the -- and Ethicon paid for you to go to</p> <p>2 Atlanta?</p> <p>3 A No.</p> <p>4 Q They didn't pay for you to go to Atlanta?</p> <p>5 A No. I was attending the AUA.</p> <p>6 Q Did they pay for your time giving these presentations?</p> <p>7 A Yes.</p> <p>8 (Exhibit No. 36 marked for</p> <p>9 identification.)</p> <p>10 Q (By Mr. DeGreeff) Doctor, I'm handing you what I've</p> <p>11 marked as Deposition Exhibit 36. Handing Barry one.</p> <p>12 And, Doctor, Deposition Exhibit 36 is a -- is an</p> <p>13 email from Price St. Hilaire, who is the product director</p> <p>14 at Ethicon; correct?</p> <p>15 A Yes, I guess so.</p> <p>16 Q And he's the -- he's the marketing director who helped</p> <p>17 launch some of the TVT product; right?</p> <p>18 A Yes.</p> <p>19 Q And you are copied on that email; right?</p> <p>20 A Yes.</p> <p>21 Q Well, it's to you. Sorry. You're not copied on it.</p> <p>22 A Okay.</p> <p>23 Q Do you see yourself in the "to" line?</p> <p>24 A I see myself in the "to" line, yes.</p> <p>25 Q And that's on May 11th of 2007?</p>	<p>1 Q And your presentation was on Monday, May 21st, is that</p> <p>2 correct --</p> <p>3 A Yes.</p> <p>4 Q -- at 1:30?</p> <p>5 A Yes.</p> <p>6 Q And it was on the Gynecare Prolift, an Ethicon product?</p> <p>7 A Yes.</p> <p>8 Q And the other people you were on a panel with were again</p> <p>9 Aaron Kirkemo; right?</p> <p>10 A Uh-huh.</p> <p>11 Q Christina -- Christina Pramudji. You know that she's</p> <p>12 a -- she's a defense expert in this litigation; right?</p> <p>13 A Okay.</p> <p>14 Q And Brian Flynn was on that one, who's also a defense</p> <p>15 expert for Ethicon in the mesh litigation; correct?</p> <p>16 A Yes.</p> <p>17 Q And then some of the other notable speakers who are</p> <p>18 giving these in-booth presentations for -- for Ethicon</p> <p>19 are Elizabeth Kavalier; correct?</p> <p>20 A Kavalier, yes.</p> <p>21 Q Kavalier. And she's also a defense expert for Ethicon in</p> <p>22 this mesh litigation?</p> <p>23 MR. KOOPMANN: Objection to form.</p> <p>24 Q (By Mr. DeGreeff) Did you know that?</p> <p>25 A No.</p>
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<p>1 A Yes.</p> <p>2 Q And the subject line says "AUA In Booth Activities"?</p> <p>3 A Yes.</p> <p>4 Q What is the AUA?</p> <p>5 A American Urologic Association.</p> <p>6 Q And what he's doing here is telling you what booth number</p> <p>7 Ethicon is at the AUA?</p> <p>8 A Yes.</p> <p>9 Q And this was the same kind of deal where Ethicon set up a</p> <p>10 marketing booth with other vendors?</p> <p>11 A Correct.</p> <p>12 Q And it's instructing you to arrive at the booth at least</p> <p>13 15 minutes prior to your scheduled presentation so they</p> <p>14 can get you set up?</p> <p>15 A Correct.</p> <p>16 Q Is this another circumstance where you gave an in-booth</p> <p>17 marketing presentation for Ethicon at the AUA?</p> <p>18 A Yes. That's the purpose of the AUA, is to look at new</p> <p>19 products, devices, and learn about the field. This is</p> <p>20 going on throughout the AUA.</p> <p>21 Q It's a marketing event?</p> <p>22 A Well, it's a marketing event. It's also a scientific</p> <p>23 event.</p> <p>24 Q Okay. And looking at --</p> <p>25 A We're presenting data on these -- these devices.</p>	<p>1 Q And where was this? Do you happen to know?</p> <p>2 A No, I don't recall. I don't recall.</p> <p>3 Q Did you get paid to give -- to be on this panel?</p> <p>4 A I would assume I -- I did.</p> <p>5 (Exhibit Nos. 37-38 marked for</p> <p>6 identification.)</p> <p>7 Q (By Mr. DeGreeff) Doctor, I'm handing you Deposition</p> <p>8 Exhibit 37. I'm also handing you Deposition Exhibit 38,</p> <p>9 and handing one to Barry.</p> <p>10 A Okay.</p> <p>11 Q Doctor, these are both invoices that you submitted to</p> <p>12 Ethicon related to your TVT World Registry clinical study</p> <p>13 work; correct?</p> <p>14 A It looks like, yes.</p> <p>15 Q And one of those was for -- totaled 2100 and one totaled</p> <p>16 3200; right?</p> <p>17 A Yes.</p> <p>18 Q So this was approximately \$5,300 worth of billings</p> <p>19 related to your work on the TVT World Registry?</p> <p>20 A Yes.</p> <p>21 Q Do you know if this was -- excuse me.</p> <p>22 And the date of these invoices were 5/10/2007 and</p> <p>23 12/5/2007; correct?</p> <p>24 A Okay. Yes.</p> <p>25 Q And were these -- do you know if there was additional</p>

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<p>1 invoices for your work on the TVT World Registry or if</p> <p>2 this would be all of them?</p> <p>3 A I just don't recall.</p> <p>4 Q So these -- again, the clinical study payments would be</p> <p>5 in addition to what you were being paid under your</p> <p>6 consulting agreements; correct?</p> <p>7 A Yes.</p> <p>8 Q And it would be in addition to what you were being paid</p> <p>9 by other pharmaceutical companies?</p> <p>10 A Yes.</p> <p>11 (Exhibit No. 39 marked for</p> <p>12 identification.)</p> <p>13 Q (By Mr. DeGreeff) Doctor, I'm handing you what I've</p> <p>14 marked as Deposition Exhibit 39.</p> <p>15 And, Doctor, this is another Ethicon -- this is --</p> <p>16 well, it looks like a schedule for the Ethicon 2009</p> <p>17 Urology Advisory Board meeting; is that correct?</p> <p>18 A Yes.</p> <p>19 Q And that occurred from December 11th to 12th of 2008; is</p> <p>20 that right?</p> <p>21 A Yes.</p> <p>22 Q And it was in Somerville, New Jersey?</p> <p>23 A Yes.</p> <p>24 Q And that is Ethicon's headquarters?</p> <p>25 A Correct.</p>	<p>1 to the hotel, then back to the airport, and then back</p> <p>2 home.</p> <p>3 Q The conference was the next day; right?</p> <p>4 A Oh, yes. So this would be flying in. So I don't know --</p> <p>5 I don't know if I made that or not. Probably did because</p> <p>6 it's so late, but getting to the east coast is difficult.</p> <p>7 Q What products -- Ethicon products have you been on an</p> <p>8 advisory board for?</p> <p>9 A I --</p> <p>10 Q Do you want me to list some and you can say yes or no?</p> <p>11 A Well, an advisory board, this is like a one-off. Each of</p> <p>12 these is kind of a one-off advisory board. There was no</p> <p>13 regularity to it. It wasn't like it met ten times a</p> <p>14 year. It would be maybe one in one year, and not another</p> <p>15 for a couple years, and then maybe two in one year.</p> <p>16 Q Well, what product was this for?</p> <p>17 A This is -- well, this is -- if you look at the beginning,</p> <p>18 these are disease states where they wanted our input as</p> <p>19 to what -- basically pick our brain to say what could</p> <p>20 be -- do you have any ideas about these different disease</p> <p>21 states, and what we can develop.</p> <p>22 Q How many other consultants like yourself would have been</p> <p>23 there?</p> <p>24 A Maybe 20. I don't know. So this one wasn't on any</p> <p>25 current products. These were all research and</p>
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<p>1 Q How many times have you been to Ethicon's headquarters?</p> <p>2 A Two, maybe three times.</p> <p>3 Q And were they always for advisory boards -- board</p> <p>4 meetings?</p> <p>5 A Ooh. No, I've done, I think, two -- two of the three</p> <p>6 were cadaver labs.</p> <p>7 Q And they -- Ethicon paid for you to come to their</p> <p>8 headquarters?</p> <p>9 A Yes.</p> <p>10 Q And were you paid for your time to go?</p> <p>11 A Yes.</p> <p>12 Q They paid for your air travel, your hotel, your expenses?</p> <p>13 A Yes.</p> <p>14 Q And would this have been -- would you have received your</p> <p>15 \$3,500 a day for full days?</p> <p>16 A I -- if that were the rate at the time, I imagine so,</p> <p>17 yes.</p> <p>18 Q And did you attend the 7:00 to 10:00 welcome reception</p> <p>19 and dinner?</p> <p>20 A I don't recall it. I'm sure I did because I was captive.</p> <p>21 Q And is -- what do you mean by "captive"?</p> <p>22 A I had nowhere else to go, no transportation, and probably</p> <p>23 hungry.</p> <p>24 Q Were you being essentially ushered around by Ethicon?</p> <p>25 A Well, we had this conference and then dinner after, back</p>	<p>1 development, pipeline ideas to give to their people to</p> <p>2 pursue.</p> <p>3 Q Have you ever been part of an advisory board on the TVT</p> <p>4 Abbrevio?</p> <p>5 A Oh, I don't recall.</p> <p>6 Q Have you testified previously that you were?</p> <p>7 A Well, there may have been one.</p> <p>8 Q Have you ever been on an advisory board for the TVT</p> <p>9 Exact?</p> <p>10 A Well, they came out at the same time. So there may have</p> <p>11 been one. I just don't recall any specific meeting.</p> <p>12 Q What about the TVT-R?</p> <p>13 A No.</p> <p>14 Q TVT-O?</p> <p>15 A Probably yes for TVT-O.</p> <p>16 Q TVT-S?</p> <p>17 A Probably yes for that.</p> <p>18 Q Prosima --</p> <p>19 A If they had one --</p> <p>20 Q Prosima?</p> <p>21 A Yes, if they had one.</p> <p>22 Q Prolift?</p> <p>23 A Probably not.</p> <p>24 Q Prolift+M?</p> <p>25 A Definitely not.</p>

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<p>1 Q Gynemesh?</p> <p>2 A Definitely not.</p> <p>3 (Exhibit No. 40 marked for</p> <p>4 identification.)</p> <p>5 Q (By Mr. DeGreeff) Doctor, I'm handing you what I've</p> <p>6 marked as Deposition Exhibit 40, and I'm really curious</p> <p>7 about this one because it's titled a "Secrecy Agreement."</p> <p>8 A Oh, okay.</p> <p>9 Q And this appears to be an agreement for you to evaluate</p> <p>10 information related to pelvic floor repair surgical</p> <p>11 stimulation while at -- while at the Ethicon meeting in</p> <p>12 Toronto, California, in August of 2010; is that right?</p> <p>13 A Well, it's right, except it's not stimulation. It's</p> <p>14 simulation.</p> <p>15 Q Yeah, that makes more sense. So that's what it is,</p> <p>16 though; correct?</p> <p>17 A Yes.</p> <p>18 Q And you -- pursuant to this agreement, for three years</p> <p>19 from its date, you weren't allowed to disclose any of the</p> <p>20 information you obtained to third parties or any other --</p> <p>21 or anybody else; right?</p> <p>22 A Yes.</p> <p>23 Q So you weren't allowed to discuss any safety concerns</p> <p>24 that you might have had based on those meetings?</p> <p>25 A There was no safety concerns because this is -- this is a</p>	<p>1 didn't know who was invited, who wasn't.</p> <p>2 (Exhibit No. 41 marked for</p> <p>3 identification.)</p> <p>4 Q (By Mr. DeGreeff) Okay. Doctor, I'm handing you what</p> <p>5 I've marked as Deposition Exhibit 41.</p> <p>6 And in particular, I want to call your attention</p> <p>7 to -- if you look at the first page, down at the bottom,</p> <p>8 there's an email from Feng Han, I can only assume?</p> <p>9 A Okay.</p> <p>10 Q And she's -- and she, he, or whatever, says, "Kindly</p> <p>11 please find the breakdown of the total budget of</p> <p>12 international speakers, including Dr. Douglas Grier and</p> <p>13 Dr. Marcus Carey for the AP Summit."</p> <p>14 Did I read that correctly?</p> <p>15 A Yes.</p> <p>16 Q What is the AP summit?</p> <p>17 A Asia-Pacific.</p> <p>18 Q And that was in Bangkok?</p> <p>19 A Yes.</p> <p>20 Q And if you look down below, it breaks down what they paid</p> <p>21 you and paid on your behalf, and it looks like it cost</p> <p>22 about \$16,100 for you to go to that summit; correct?</p> <p>23 A Of which the majority -- the -- half of that was -- or</p> <p>24 40 percent of it was the -- the airfare and lodging.</p> <p>25 Q Well, let's talk about that. They paid you \$10,500 as</p>
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<p>1 simulator that has nothing to do with patient surgery.</p> <p>2 It's simply a three-dimensional -- basically almost like</p> <p>3 a hologram box that you look into, and you can move your</p> <p>4 way around in the female pelvis and see all the anatomy.</p> <p>5 This is a training device, has nothing to do with</p> <p>6 surgery. It's purely for education.</p> <p>7 Q So this was a situation where you, as one of Ethicon's</p> <p>8 go-to consultants, was allowed to see the internal</p> <p>9 products; fair?</p> <p>10 A This particular internal product, yes.</p> <p>11 Q Because you were someone they'd worked with a lot and</p> <p>12 trusted?</p> <p>13 A Yes. And the -- I think the lead employee on this</p> <p>14 happened to be one of the professional education</p> <p>15 coordinators in the past, so he knew me from working with</p> <p>16 him in the past, and so I think that's why he invited me</p> <p>17 into this -- this product that they were developing.</p> <p>18 Q And he was an Ethicon employee?</p> <p>19 A Yes.</p> <p>20 Q How many other non-Ethicon employees would have been at</p> <p>21 this meeting?</p> <p>22 A You mean at this particular -- I have no idea. And the</p> <p>23 reason I have no idea is, they would invite you in --</p> <p>24 individually into a room. There was no other physicians</p> <p>25 in the room. And then you would leave. So you'd -- I</p>	<p>1 your per day honorarium; correct?</p> <p>2 A No. The total honorarium. \$3,500 a day, the standard</p> <p>3 rate for three days.</p> <p>4 Q That's what I'm saying. \$10,500, of which you got paid</p> <p>5 for your -- your three days?</p> <p>6 A Yes.</p> <p>7 Q And on top of that, they paid for a \$5,000 flight?</p> <p>8 A Yes.</p> <p>9 Q And they paid for \$600 worth of accommodations at \$200 a</p> <p>10 day?</p> <p>11 A Okay.</p> <p>12 Q And did they also pay for your food and expenses while</p> <p>13 you were there?</p> <p>14 A Most of them, yes.</p> <p>15 Q And what agreement would this have fallen under? Your</p> <p>16 consulting agreement?</p> <p>17 A Yes.</p> <p>18 Q And this was a three-day trip; correct?</p> <p>19 A Yes. Seventy-two hours.</p> <p>20 Q And was your other trip to China longer than this one or</p> <p>21 shorter than this one?</p> <p>22 A Shorter.</p> <p>23 Q So again, you made roughly -- you made \$10,500 in three</p> <p>24 days?</p> <p>25 A Yes.</p>

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<p>1 Q At that \$3,500 daily rate, that essentially assumes a</p> <p>2 million dollar a year income; right?</p> <p>3 A I have not done the math on it. That obviously didn't</p> <p>4 happen.</p> <p>5 (Exhibit No. 42 marked for</p> <p>6 identification.)</p> <p>7 Q (By Mr. DeGreeff) Doctor, I'm going to hand you what</p> <p>8 I've marked as Deposition Exhibit 42. I'm going to hand</p> <p>9 one to Barry.</p> <p>10 Doctor, if you look on the first page, this is a --</p> <p>11 the very first email that was November 19th, 2010, at</p> <p>12 11:12 a.m., do you see that?</p> <p>13 A Yes.</p> <p>14 Q And that's from Ronald Horton. Do you know who he is,</p> <p>15 with Ethicon?</p> <p>16 A No.</p> <p>17 Q And it's to a number of people. Paul Parisi, I know you</p> <p>18 know him; right?</p> <p>19 A Yes.</p> <p>20 Q And Marti Heckman, you know him?</p> <p>21 A No.</p> <p>22 Q Allison West?</p> <p>23 A No.</p> <p>24 Q Lissette Caro-Rosado?</p> <p>25 A Yes.</p>	<p>1 MR. KOOPMANN: Object to the form.</p> <p>2 Q (By Mr. DeGreeff) Your words, not mine; right, Doctor?</p> <p>3 MR. KOOPMANN: Object to the form.</p> <p>4 Q (By Mr. DeGreeff) Answer.</p> <p>5 A This is -- that -- you see the total that I have. I'm</p> <p>6 not sure what you're asking me to say.</p> <p>7 Q And that was for the year 2010?</p> <p>8 A Yes.</p> <p>9 Q Some other -- and what is a key opinion leader, Doctor?</p> <p>10 A Well, it's people whose opinion they value.</p> <p>11 Q Ethicon values?</p> <p>12 A Well, yes.</p> <p>13 Q And what is the job of a key opinion leader?</p> <p>14 A Well, my job was to teach and train physicians on these</p> <p>15 products.</p> <p>16 Q And to help convert people who weren't using the products</p> <p>17 to using Ethicon products?</p> <p>18 A Well, I believe in these products. It was very useful</p> <p>19 for my practice, and I felt it was a practice enhancer,</p> <p>20 and I wasn't saying anything that wasn't true for me</p> <p>21 personally.</p> <p>22 Q And some other people on that list with you are -- do you</p> <p>23 know who Dr. Anhalt is?</p> <p>24 A Yes, I think so.</p> <p>25 Q And you know that's a defense expert in this mesh</p>
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<p>1 Q How do you know her?</p> <p>2 A I just -- I don't remember what her job was, but I met</p> <p>3 her in rooms before.</p> <p>4 Q And this particular email says "All, please see the below</p> <p>5 list of highly used KOLs" -- do you know what that means?</p> <p>6 A Key opinion leaders.</p> <p>7 Q Okay. -- "and the total pay they have received this</p> <p>8 year."</p> <p>9 And -- did I read that correctly?</p> <p>10 A Yes.</p> <p>11 Q And you're on that list; correct?</p> <p>12 A Yes.</p> <p>13 Q And that says that you've received \$162,475; is that</p> <p>14 right?</p> <p>15 A Yes.</p> <p>16 Q And that was for the year 2010?</p> <p>17 A Yes. That was a busy year.</p> <p>18 Q And this was the -- this was another year where you maxed</p> <p>19 out the Gyne; is that right?</p> <p>20 MR. KOOPMANN: Object to the form.</p> <p>21 THE WITNESS: I'm not going to answer</p> <p>22 that.</p> <p>23 Q (By Mr. DeGreeff) Why not? It's a fair question; right?</p> <p>24 That's how you referred to being paid all of your -- all</p> <p>25 of your money under the consulting agreement?</p>	<p>1 litigation?</p> <p>2 A I know now.</p> <p>3 Q Again we see Dr. Carbone, a defense expert in this</p> <p>4 litigation; right?</p> <p>5 A Yes.</p> <p>6 Q And do you know who Dr. Leval is?</p> <p>7 A Perhaps that's Jean Leval, the inventor of the TVT-O.</p> <p>8 Q Yeah, he invented the TVT-O and the TVT Abbrevio; correct?</p> <p>9 A Yes.</p> <p>10 Q And he has offered opinions in one mesh case and</p> <p>11 testified at trial on another; right? Are you aware of</p> <p>12 that?</p> <p>13 MR. KOOPMANN: Object to form.</p> <p>14 THE WITNESS: I'm not aware of that.</p> <p>15 Q (By Mr. DeGreeff) Would that have been -- given that</p> <p>16 you're giving TVT-O opinions in this case, would those</p> <p>17 have been things you wanted to see.</p> <p>18 A Well, there's a certain amount of information overload in</p> <p>19 all these documents that I've been sent that I'm doing my</p> <p>20 best to go over them. So I don't look at more</p> <p>21 information necessarily as offering me anything, but when</p> <p>22 it comes to trial testimony . . .</p> <p>23 Q Would you --</p> <p>24 A It's not how I decided to use these products. It's not</p> <p>25 peer-reviewed, published data. It doesn't have level one</p>

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<p>1 relevance. It -- you're talking about individual</p> <p>2 testimony.</p> <p>3 Q In rendering your opinions in this case regarding TVT-O,</p> <p>4 would you have wanted to see the trial testimony of the</p> <p>5 man who invented it?</p> <p>6 MR. KOOPMANN: Object to the form.</p> <p>7 THE WITNESS: I would like to see if</p> <p>8 there was anything unique or different than what I know</p> <p>9 about the product already.</p> <p>10 Q (By Mr. DeGreeff) Doctor, did you know that there's 12</p> <p>11 doctors on this list that you're on, not including you,</p> <p>12 who are acting as experts for Ethicon in the mesh</p> <p>13 litigation?</p> <p>14 MR. KOOPMANN: Object to form.</p> <p>15 THE WITNESS: When I look at this</p> <p>16 list, I see people who have done a lot of teaching and</p> <p>17 who know these products intimately, so why would you not</p> <p>18 engage them in -- in the defense of the products?</p> <p>19 Q (By Mr. DeGreeff) You're also seeing some people who</p> <p>20 have been paid a whole lot of money, aren't you, by</p> <p>21 Ethicon?</p> <p>22 MR. KOOPMANN: Object to form.</p> <p>23 THE WITNESS: I see large numbers</p> <p>24 here, yes.</p> <p>25 Q (By Mr. DeGreeff) Dr. Lucente was paid 410,000 in one</p>	<p>1 Otherwise, I would be.</p> <p>2 (Exhibit Nos. 43-46 marked for</p> <p>3 identification.)</p> <p>4 MR. DEGREEFF: Barry, here's 43, 44.</p> <p>5 There you go, Barry. I've got yours coming, Doctor.</p> <p>6 Q (By Mr. DeGreeff) Doctor, I'm going to hand you what</p> <p>7 I've marked as Deposition Exhibits 43 through 46, and</p> <p>8 we'll talk about them one at a time.</p> <p>9 Doctor, Deposition Exhibit 43 is a reimbursement</p> <p>10 form for -- dated June 27th of 2012; right?</p> <p>11 A Yes.</p> <p>12 Q And this is your submission for -- assuming giving a</p> <p>13 presentation at Spencer's for Steaks and Chops in</p> <p>14 Spokane, Washington?</p> <p>15 A Yes.</p> <p>16 Q And your honorarium for that was \$2,187.50; is that</p> <p>17 right?</p> <p>18 A Yes.</p> <p>19 Q And is Spencer's a -- it's a nice steakhouse?</p> <p>20 A I did not find it to be.</p> <p>21 Q Okay.</p> <p>22 A It's in a Doubletree hotel.</p> <p>23 Q Okay. Did Ethicon pay for your dinner?</p> <p>24 A They did.</p> <p>25 Q Did they pay for the attendees' dinner?</p>
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<p>1 year?</p> <p>2 A I see that. But he works extremely hard and put a lot of</p> <p>3 hours into -- into these -- into teaching --</p> <p>4 Q That's --</p> <p>5 A -- and research.</p> <p>6 Q That's \$400,000 in one year paid by Ethicon; right?</p> <p>7 A Yes.</p> <p>8 MR. KOOPMANN: Object to form.</p> <p>9 Q (By Mr. DeGreeff) To one of their experts in this case?</p> <p>10 MR. KOOPMANN: Object to form.</p> <p>11 THE WITNESS: I see that, yes.</p> <p>12 Q (By Mr. DeGreeff) You think that that's a conflict of</p> <p>13 interest for him to serve as an expert, given that he's</p> <p>14 been paid \$400,000 in one year by the people he's writing</p> <p>15 the opinions for?</p> <p>16 MR. KOOPMANN: Object to form.</p> <p>17 THE WITNESS: I don't have an opinion</p> <p>18 on that.</p> <p>19 Q (By Mr. DeGreeff) Do you think you have a conflict of</p> <p>20 interest, given what you've been paid by this company</p> <p>21 over the years?</p> <p>22 A No, I don't. I'm still using the products. I still</p> <p>23 believe that they're safe and efficacious.</p> <p>24 Q You're not using the TVT-S, are you?</p> <p>25 A Only because it was withdrawn from the market.</p>	<p>1 A Yes.</p> <p>2 Q And that was -- now, if you'll look at Exhibit 44, that</p> <p>3 was June 28th of 2012, and that's, again, a reimbursement</p> <p>4 form; right?</p> <p>5 A Yes.</p> <p>6 Q And that looks like it was -- it was for a roundtable</p> <p>7 that you did at the Marc restaurant in Walla Walla,</p> <p>8 Washington?</p> <p>9 A Yes.</p> <p>10 Q And that was at the Marcus Whitman Hotel?</p> <p>11 A Yes.</p> <p>12 Q And your honorarium for that one was \$3,937.50?</p> <p>13 A Yes. The reason for that was, there were two cases that</p> <p>14 were scheduled to be proctored at a local hospital, and</p> <p>15 they fell through at the last minute. So I was kicked</p> <p>16 out for the whole day.</p> <p>17 Q My question was just the honorarium was \$3,937.50; right?</p> <p>18 A Yes.</p> <p>19 Q And so Exhibit 43 and 44 are back-to-back days, June 27th</p> <p>20 and June 28th of 2012; correct?</p> <p>21 A Yes.</p> <p>22 Q Between those two dinner presentations, you made roughly</p> <p>23 \$6,100?</p> <p>24 A Okay.</p> <p>25 Q Is that correct?</p>

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<p>1 A Yes.</p> <p>2 Q All right. Looking at Exhibit 45, I think, is the next</p> <p>3 one. That's a -- another faculty reimbursement form from</p> <p>4 July 11th of 2012; is that right?</p> <p>5 A Yes.</p> <p>6 Q And that's from a presentation you did at the Andina</p> <p>7 restaurant in Portland, Oregon?</p> <p>8 A Yes.</p> <p>9 Q And again, Ethicon paid for the meal?</p> <p>10 A They did.</p> <p>11 Q And your honorarium on that one was \$2,187.50?</p> <p>12 A Yes.</p> <p>13 Q And looking at Exhibit 46, that's another reimbursement</p> <p>14 form for a presentation you gave on July 12th of 2012, at</p> <p>15 Beverly's in Coeur d'Alene, Ohio; right?</p> <p>16 A Idaho.</p> <p>17 Q Idaho. Sorry. Right?</p> <p>18 A Yes.</p> <p>19 Q And Coeur d'Alene is a resort town?</p> <p>20 A It is.</p> <p>21 Q And is Beverly's a nice restaurant?</p> <p>22 A Yes.</p> <p>23 Q And Ethicon paid for that?</p> <p>24 A Yes.</p> <p>25 Q And your honorarium was \$3,937.50?</p>	<p>1 Q And the final payment, it appears, is 12/9 of '10; is</p> <p>2 that right?</p> <p>3 A No. 12/17 of '10.</p> <p>4 Q Okay. I don't have -- oh, okay. Yeah. I see what</p> <p>5 you're saying. Okay. Good.</p> <p>6 And, Doctor, remember you told me earlier that you</p> <p>7 didn't remember doing any cadaver labs that were full</p> <p>8 days?</p> <p>9 MR. KOOPMANN: Object to form.</p> <p>10 THE WITNESS: Well, when you're</p> <p>11 saying -- what do you mean by full days? What -- if it's</p> <p>12 a day out of the office, that's a full day. You mean --</p> <p>13 cadaver lab will take a full day out of the office.</p> <p>14 Q (By Mr. DeGreeff) Okay. Well, you -- I thought you told</p> <p>15 me it was only -- they would only constitute a half day.</p> <p>16 A Well, if you -- if you start at 7:00 a.m. and you're done</p> <p>17 around 2:00 to 3:00, what do you consider that -- that's</p> <p>18 five -- that's -- eight hours. Isn't that a full day?</p> <p>19 Q I agree with you. That's why I was -- I was trying to</p> <p>20 figure out why you were telling me that it was a half</p> <p>21 day.</p> <p>22 And, Doctor, based on this spreadsheet, you were</p> <p>23 paid for trips to Denver, Colorado; right?</p> <p>24 A Yes.</p> <p>25 Q Burbank, California?</p>
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<p>1 A Yes.</p> <p>2 Q So again, looking at the last two exhibits, again you</p> <p>3 made roughly \$6,100 in two nights?</p> <p>4 A Okay. Two different days, yes.</p> <p>5 Q And those were back-to-back days?</p> <p>6 A Yes. Exactly.</p> <p>7 Q So between the four -- the four exhibits we just talked</p> <p>8 about, 43, 44, 45, and 46, you made a little over \$12,000</p> <p>9 in two weeks?</p> <p>10 A I guess so, yes.</p> <p>11 (Exhibit No. 47 marked for</p> <p>12 identification.)</p> <p>13 Q (By Mr. DeGreeff) Doctor, handing you what I've marked</p> <p>14 as Deposition Exhibit 47, this is a spreadsheet of</p> <p>15 payments.</p> <p>16 You see that?</p> <p>17 A Yes.</p> <p>18 Q And this is -- I'll represent to you that this is a</p> <p>19 document that was produced by Ethicon, and all I did was</p> <p>20 make it so that you were the only person who showed up.</p> <p>21 Okay?</p> <p>22 A Okay.</p> <p>23 Q And the beginning date on these -- and this is a payment</p> <p>24 list. And the beginning payment is 4/2 of '08; right?</p> <p>25 A Yes.</p>	<p>1 A Yes.</p> <p>2 Q St. Croix Falls, Wisconsin?</p> <p>3 A Yes.</p> <p>4 Q Tracy, California?</p> <p>5 A Yes.</p> <p>6 Q Phoenix, Arizona?</p> <p>7 A Uh-huh.</p> <p>8 Q Burbank, California?</p> <p>9 A Yes.</p> <p>10 Q Phoenix, Arizona?</p> <p>11 A Wait -- take that one back. Burbank, California -- yes</p> <p>12 Sorry. Yes.</p> <p>13 Q And then Phoenix several more occasions?</p> <p>14 A Yes. That's -- there are certain places in the country</p> <p>15 that have cadaver labs, and --</p> <p>16 Q Anchorage, Alaska?</p> <p>17 A Yes.</p> <p>18 Q Chicago, Illinois?</p> <p>19 A Yes.</p> <p>20 Q La Jolla, California?</p> <p>21 A Yes. That was a dinner lecture, I think.</p> <p>22 Q And -- nice place; right?</p> <p>23 Dallas, Texas?</p> <p>24 A Yes.</p> <p>25 Q Detroit, Michigan. I'll give you one there. I -- nobody</p>

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<p>1 wants to go to Detroit.</p> <p>2 San Francisco, California?</p> <p>3 A Oh, I remember that. Yes.</p> <p>4 Q San Diego, California?</p> <p>5 A Yes.</p> <p>6 Q Denver, Colorado, three more times.</p> <p>7 A Right.</p> <p>8 Q And, Doctor, you see those -- those payment amounts over</p> <p>9 on the side?</p> <p>10 A Yes.</p> <p>11 Q You can add them up if you want to, but I'll represent</p> <p>12 that those add up to \$166,843.</p> <p>13 A Okay.</p> <p>14 Q And that's just what you were paid for your honorarium;</p> <p>15 correct?</p> <p>16 A That's correct.</p> <p>17 Q That doesn't include what they paid for your expenses and</p> <p>18 hotels and airplane flights or anything else?</p> <p>19 A Over this three-year period?</p> <p>20 Q Well, it's two and a half years; right?</p> <p>21 A Well, starting in April -- the beginning of April, that's</p> <p>22 what, eight months and one year, and then two more years.</p> <p>23 So that's pretty close to three years.</p> <p>24 Q So it's \$166,000 in roughly -- a little over two and a</p> <p>25 half years?</p>	<p>1 looked at, the \$50,000 chunks from Eli Lilly and some of</p> <p>2 the others, fair to say you've been paid over a million</p> <p>3 dollars by the pharmaceutical industry as a whole?</p> <p>4 MR. KOOPMANN: Object to form.</p> <p>5 THE WITNESS: Are you lumping medical</p> <p>6 device with pharmaceuticals?</p> <p>7 Q (By Mr. DeGreeff) Yes.</p> <p>8 A I mean, I -- I have not done the math.</p> <p>9 Q Does that seem like a reasonable number?</p> <p>10 A I would have to confirm it to see whether it was a</p> <p>11 reasonable number.</p> <p>12 Q Well, let's talk about what we do know. We know you were</p> <p>13 paid 166,000, right, from -- from two thousand --</p> <p>14 April of 2008 until December of 2010?</p> <p>15 MR. KOOPMANN: Objection. Form.</p> <p>16 Asked and answered.</p> <p>17 Q (By Mr. DeGreeff) Is that correct?</p> <p>18 A Yes. You can't extrapolate it. These were the busiest</p> <p>19 years that I had.</p> <p>20 Q Well, we know that in 2011 you were paid 162,000;</p> <p>21 correct?</p> <p>22 A That's in these years, yes.</p> <p>23 Q We know that in 2004 you were paid 100,000; right?</p> <p>24 MR. KOOPMANN: Object to form.</p> <p>25 Q (By Mr. DeGreeff) That was the year you maxed out the</p>
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<p>1 A Okay.</p> <p>2 Q And you were operating under -- and that's just</p> <p>3 consulting agreements; correct?</p> <p>4 A Yes.</p> <p>5 Q That's not the clinical studies?</p> <p>6 A The -- yes.</p> <p>7 Q And that's not the other pharmaceutical companies that</p> <p>8 were paying you?</p> <p>9 A That's right.</p> <p>10 Q And that's not the other 12 years of consulting</p> <p>11 agreements that you had with the company?</p> <p>12 A Yes.</p> <p>13 Q Doctor, is it fair to say that you've been paid over a</p> <p>14 million dollars by Ethicon between consulting, clinical</p> <p>15 study reports, and all the other things you've done and</p> <p>16 been paid for?</p> <p>17 MR. KOOPMANN: Object to form.</p> <p>18 THE WITNESS: My memory was the Perry</p> <p>19 trial, the plaintiffs' attorney came up with a figure of</p> <p>20 560,000 over that entire length of time.</p> <p>21 Q (By Mr. DeGreeff) Doctor, I actually think that was your</p> <p>22 number from the Perry trial transcript.</p> <p>23 A I can't imagine it's that much because the early years</p> <p>24 were maybe 20- or 30,000 a year.</p> <p>25 Q Let's try this: Based on some of the other numbers we've</p>	<p>1 Gyne.</p> <p>2 A Okay.</p> <p>3 MR. KOOPMANN: Object to form.</p> <p>4 Q (By Mr. DeGreeff) So between those three, you're talking</p> <p>5 about \$435,000, right, just between those -- just between</p> <p>6 those three things?</p> <p>7 A Okay.</p> <p>8 Q Is that correct?</p> <p>9 A Yes.</p> <p>10 MR. KOOPMANN: Object to form.</p> <p>11 Q (By Mr. DeGreeff) On top of that, we know that you've</p> <p>12 been -- you've been paid somewhere between 50- and</p> <p>13 \$100,000 for representing Ethicon in the mesh litigation;</p> <p>14 right?</p> <p>15 MR. KOOPMANN: Object to form.</p> <p>16 THE WITNESS: Okay.</p> <p>17 Q (By Mr. DeGreeff) So that puts us up to -- that puts us</p> <p>18 over \$500,000; right?</p> <p>19 A Sure.</p> <p>20 Q And then we've got consulting agreements for the</p> <p>21 remaining 12 years that we -- that we haven't even</p> <p>22 factored in; right?</p> <p>23 MR. KOOPMANN: Object to form.</p> <p>24 Q (By Mr. DeGreeff) And that's -- those were consulting</p> <p>25 agreements with Ethicon.</p>

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<p>1 A In the -- in the less peak years, yes.</p> <p>2 Q Okay. Well, we know that more than once you maxed them</p> <p>3 out because you needed additional contracts; right?</p> <p>4 A Apparently.</p> <p>5 Q And on top of that, we know that you've been paid</p> <p>6 hundreds of thousands of dollars by pharmaceutical</p> <p>7 companies that we just went through?</p> <p>8 MR. KOOPMANN: Object to form.</p> <p>9 Q (By Mr. DeGreeff) Is that --</p> <p>10 A Okay.</p> <p>11 Q Is that correct?</p> <p>12 A Yes. All of that represents work on my time.</p> <p>13 Q And that's not my question, Doctor. I'm not --</p> <p>14 A I know that's not your question. You just want to frame</p> <p>15 it in terms of just the economics of it.</p> <p>16 Q Well, the way it works is, I ask the questions, and</p> <p>17 that's my question. Given the things we've just</p> <p>18 discussed, Doctor, don't you think you've been paid a</p> <p>19 million dollars by the pharmaceutical industry?</p> <p>20 MR. KOOPMANN: Object to form.</p> <p>21 THE WITNESS: Well, I don't -- I may</p> <p>22 have. I don't know. Over the -- over the last 15 years,</p> <p>23 you're talking about?</p> <p>24 Q (By Mr. DeGreeff) Yes.</p> <p>25 A It's certainly possible, yes.</p>	<p>1 2000s. I've used the MiniArc. I've used the Adjust.</p> <p>2 I've used the Boston Scientific. I've used Monarc. I've</p> <p>3 used SPARC. I've used one that was -- I forget the name</p> <p>4 of it. It was manufactured as GMD.</p> <p>5 Q Okay. What Ethicon transvaginal mesh products have you</p> <p>6 placed?</p> <p>7 A All of them.</p> <p>8 Q All of them?</p> <p>9 MR. KOOPMANN: I'd like to lodge an</p> <p>10 objection to the form of that last question.</p> <p>11 Q (By Mr. DeGreeff) Doctor, do you agree that the only</p> <p>12 papers available in 1999 on TVT were authored by Ulmsten</p> <p>13 and Nilsson?</p> <p>14 A That's -- of the Scandinavian group, that's probably</p> <p>15 true. They're the first ones to publish it. But I know</p> <p>16 it was used in Europe several years before it came to the</p> <p>17 U.S.</p> <p>18 Q Doctor, your reliance list, if you can find it under</p> <p>19 there, Doctor, that's a -- and that's exhibit what? I'm</p> <p>20 sorry. 16?</p> <p>21 A Yes.</p> <p>22 Q Doctor, that reliance list is 82 pages long; right?</p> <p>23 A Yes, it is.</p> <p>24 Q And have you counted up the articles on that?</p> <p>25 A No.</p>
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<p>1 Q Let's talk about -- actually, let's go off the record for</p> <p>2 one second just so I can get my thought together so I</p> <p>3 don't make this . . .</p> <p>4 (Pause in proceedings.)</p> <p>5 Q (By Mr. DeGreeff) Doctor, have you ever used any TVM</p> <p>6 product other than Ethicon for treatment of SUI?</p> <p>7 A Yes.</p> <p>8 Q Which one?</p> <p>9 A The Elevate and Apogee/Perigee from -- that's AMS.</p> <p>10 Q When did you use that one?</p> <p>11 A Oh, 2005, 2006, about in there. There have been other</p> <p>12 times when I have -- multiple times when I've proctored</p> <p>13 in an OR, and I would proctor on the TVT sling and then</p> <p>14 the surgeon would use one of the other products for their</p> <p>15 pelvic floor repair.</p> <p>16 Q Oh, SUI. I'm sorry.</p> <p>17 A Oh, SUI.</p> <p>18 Q Yes. What Ethicon -- have you ever used any TVM product</p> <p>19 other than Ethicon products for the treatment of SUI</p> <p>20 only?</p> <p>21 A Yes.</p> <p>22 Q And which one would that be?</p> <p>23 A Bard Uretex.</p> <p>24 Q When did you use that?</p> <p>25 A When it was first introduced, which would be the early</p>	<p>1 Q Do you know how many pages the list of articles is, how</p> <p>2 many pages long the list of articles alone is?</p> <p>3 A I haven't counted that either. It's not -- it's not</p> <p>4 listed.</p> <p>5 Q Well, I'll represent to you that the -- the list of</p> <p>6 articles alone is 43 pages long and includes 875</p> <p>7 articles. Does that look reasonable?</p> <p>8 A Well, a lot of them were kind of maybe Ethicon inside</p> <p>9 documents, letters, IFUs.</p> <p>10 Q Well, that's later on.</p> <p>11 A Oh.</p> <p>12 Q I'm talking about 43 pages of only scientific articles</p> <p>13 and literature and 875 separate articles.</p> <p>14 Did you review 875 articles in giving your opinion?</p> <p>15 A No. I've scanned the vast majority of these, though.</p> <p>16 Q And when you say "scanned" them, do you mean you looked</p> <p>17 at the title?</p> <p>18 A No, not the title. The abstracts.</p> <p>19 Q You didn't read them in detail?</p> <p>20 A Not if I didn't find that it had something specific to</p> <p>21 offer.</p> <p>22 Q Are you saying that you've -- you've partially read 875</p> <p>23 articles?</p> <p>24 MR. KOOPMANN: Objection. Form.</p> <p>25 THE WITNESS: I don't know the exact</p>

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<p>1 number.</p> <p>2 Q (By Mr. DeGreeff) Have you --</p> <p>3 A But a lot of these articles, I have read in the past, not</p> <p>4 just for this trial. A lot of them are just the landmark</p> <p>5 articles.</p> <p>6 Q Who compiled that list?</p> <p>7 MR. KOOPMANN: Objection. Form.</p> <p>8 THE WITNESS: The legal team compiled</p> <p>9 it.</p> <p>10 Q (By Mr. DeGreeff) And did you tell the legal team which</p> <p>11 articles should be on it?</p> <p>12 A No. There were a couple that I added because I found</p> <p>13 them later on. They were more recent.</p> <p>14 Q So a couple of the 875 you added versus the defense legal</p> <p>15 team?</p> <p>16 A Yes. Because they basically did a -- a -- what I would</p> <p>17 call a Medline search on the topic.</p> <p>18 Q And, Doctor, if you look in there, there's 130</p> <p>19 depositions on your reliance list; correct?</p> <p>20 A Okay. That, I'm not aware of.</p> <p>21 Q It's towards the back. Did you read 130 depositions in</p> <p>22 preparing your --</p> <p>23 A No.</p> <p>24 Q Did you read any of the depositions?</p> <p>25 A Yes.</p>	<p>1 A No.</p> <p>2 Q Fair to say you haven't reviewed everything on your</p> <p>3 reliance list?</p> <p>4 A Yes.</p> <p>5 Q What percentage of the documents on your reliance list</p> <p>6 would you say you've reviewed?</p> <p>7 A I can't give a percentage because a lot of these are</p> <p>8 just -- are internal documents that I did not read, and</p> <p>9 there's a lot of them.</p> <p>10 Q Did you just -- did you not read the internal</p> <p>11 documents -- the Ethicon internal documents?</p> <p>12 A Very few of them. I just didn't find them relevant or</p> <p>13 find anything in there that I could use.</p> <p>14 Q And which of the depositions that -- looking at your list</p> <p>15 of depositions, were there any in particular that you</p> <p>16 remember reading that stood out to you?</p> <p>17 A Well, I remember reading Ostergard, Margolis, Blaivis.</p> <p>18 Q Any others?</p> <p>19 A Moore.</p> <p>20 Q Any others?</p> <p>21 A In the past, Rosenzweig.</p> <p>22 Q Any others?</p> <p>23 A I don't recall any other.</p> <p>24 Q Did you read any depositions of Ethicon employees?</p> <p>25 A I did for the Perry trial. Not since.</p>
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<p>1 Q How many of them?</p> <p>2 A At least a dozen. Maybe 20.</p> <p>3 Q So maybe 20 out of 130?</p> <p>4 A Yes.</p> <p>5 Q And on top of that, there's another 36 pages of your --</p> <p>6 of your list there that contain hundreds of documents.</p> <p>7 Did you review all of those documents?</p> <p>8 A No.</p> <p>9 Q Did you have any part in selecting the documents outside</p> <p>10 of the articles that went into that reliance list?</p> <p>11 A No.</p> <p>12 Q Was that all selected by defense counsel?</p> <p>13 A Yes.</p> <p>14 Q And there's some expert reports on the last page of that</p> <p>15 reliance list.</p> <p>16 Did you review those?</p> <p>17 A Some of them, I did.</p> <p>18 Q There's not -- there are not that many of them, is there?</p> <p>19 How many of them is there?</p> <p>20 A Oh, okay. I think I've read all but the one that's</p> <p>21 Vladimir.</p> <p>22 Q Do you know how many expert reports have been given in</p> <p>23 this case --</p> <p>24 A No.</p> <p>25 Q -- in this litigation?</p>	<p>1 Q And that was an Abbrevio case?</p> <p>2 A Yes.</p> <p>3 Q You're not giving an Abbrevio opinion in the Wave 1</p> <p>4 litigation; correct?</p> <p>5 A No.</p> <p>6 Q Why do you have so many documents on your reliance list</p> <p>7 if you're not relying on them?</p> <p>8 MR. KOOPMANN: Objection. Form.</p> <p>9 THE WITNESS: Well, in case during --</p> <p>10 during testimony one of them is brought up, that I've</p> <p>11 reviewed it so that I can go over it.</p> <p>12 Q (By Mr. DeGreeff) Well, but as you sit here, you haven't</p> <p>13 reviewed a number of documents on your reliance list and</p> <p>14 they're -- you're not relying on them for your opinions;</p> <p>15 correct?</p> <p>16 MR. KOOPMANN: Objection. Form.</p> <p>17 THE WITNESS: I'm -- well, I'm relying</p> <p>18 on the ones that I found significant, ones that had, say,</p> <p>19 level one data, that either they were long-term or they</p> <p>20 were randomized controlled trials or the Cochrane</p> <p>21 reviews. Those are meta-analysis that include a lot of</p> <p>22 these papers, so I went with the higher level ones</p> <p>23 because I find that they have more objectivity.</p> <p>24 Q (By Mr. DeGreeff) Doctor, there are a number of</p> <p>25 documents on that reliance list that you're not relying</p>

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<p>1 on for your opinions; correct?</p> <p>2 A Yes.</p> <p>3 Q Doctor, is there a single long-term randomized control</p> <p>4 trial for TVT that has safety as the primary end point?</p> <p>5 A My memory is, there is one, but with that as the specific</p> <p>6 end point?</p> <p>7 Q Yes.</p> <p>8 A Where am I -- I think they're in here. Do you know,</p> <p>9 these are the --</p> <p>10 MR. KOOPMANN: There's your general</p> <p>11 report.</p> <p>12 THE WITNESS: Secur?</p> <p>13 MR. KOOPMANN: Oh, no.</p> <p>14 THE WITNESS: I know there's a</p> <p>15 Cochrane review. So this Tommaselli is questions</p> <p>16 regarding long-term efficacy and safety of midurethral</p> <p>17 slings still unresolved notwithstanding the widespread</p> <p>18 use of these procedures. And so this is long-term</p> <p>19 outcomes.</p> <p>20 Q (By Mr. DeGreeff) Is that a randomized controlled study?</p> <p>21 A It is -- well, it's a systematic review of meta-analysis.</p> <p>22 So it would include randomized control trials in it.</p> <p>23 Q The study itself is not a randomized, controlled study;</p> <p>24 correct?</p> <p>25 A No. Because it's a meta-analysis. It's a compendium of</p>	<p>1 the type, you can have chronic pelvic pain. So is it a</p> <p>2 direct result of mesh surgery? I can't answer that.</p> <p>3 Q Well, I'm not asking about mesh surgery, Doctor. I'm</p> <p>4 talking about the mesh itself. Mesh can cause pain for</p> <p>5 women who have it; fair?</p> <p>6 MR. KOOPMANN: Object to form.</p> <p>7 THE WITNESS: It's a possibility. I</p> <p>8 don't -- I can't answer that with certainty.</p> <p>9 Q (By Mr. DeGreeff) And mesh can result in chronic pain</p> <p>10 for women who have it; correct?</p> <p>11 MR. KOOPMANN: Object to form.</p> <p>12 THE WITNESS: Again, all pelvic</p> <p>13 surgery can lead to chronic pain, and women who have no</p> <p>14 surgery can have chronic pelvic pain. So I can't</p> <p>15 a priori say that mesh causes chronic pelvic pain. I</p> <p>16 can't answer that as a yes.</p> <p>17 Q (By Mr. DeGreeff) Well, mesh can -- let's rephrase it</p> <p>18 then.</p> <p>19 Mesh can be a cause of chronic pain for women;</p> <p>20 correct?</p> <p>21 MR. KOOPMANN: Object to form.</p> <p>22 THE WITNESS: I don't know a specific</p> <p>23 mechanism that mesh would cause chronic pelvic pain.</p> <p>24 Q (By Mr. DeGreeff) Okay. Well, let me ask it this way:</p> <p>25 Yes, no, or you can't answer: Mesh can be a cause of</p>
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<p>1 multiple studies.</p> <p>2 Q I understand. I'm looking for a study that was actually</p> <p>3 a randomized controlled study with the primary end point</p> <p>4 of safety.</p> <p>5 A Well, I -- I could work on that.</p> <p>6 Q That's okay. As you sit here, do you know one?</p> <p>7 A Not a specific one.</p> <p>8 Q Okay. Well, let's move on because -- mesh can cause pain</p> <p>9 for women who -- transvaginal mesh can cause pain for</p> <p>10 women; correct, Doctor?</p> <p>11 MR. KOOPMANN: Object to form.</p> <p>12 THE WITNESS: It's a possible</p> <p>13 complication of all pelvic surgery, and it is -- can be</p> <p>14 with mesh surgery also.</p> <p>15 Q (By Mr. DeGreeff) Doctor, I'm not talking about</p> <p>16 short-term surgical pain. I'm talking about it can be a</p> <p>17 cause of long-term chronic pain for women; correct?</p> <p>18 MR. KOOPMANN: Object to form.</p> <p>19 THE WITNESS: That -- that's an</p> <p>20 important question, and I don't have a good answer for</p> <p>21 you because there's a lot of chronic pelvic pain. About</p> <p>22 a third of menopausal women have chronic pelvic pain --</p> <p>23 Q (By Mr. DeGreeff) Okay.</p> <p>24 A -- who have not had surgery.</p> <p>25 So if you add surgery on top of it, regardless of</p>	<p>1 chronic pain for women who have it?</p> <p>2 MR. KOOPMANN: Object to form.</p> <p>3 THE WITNESS: I can't answer.</p> <p>4 Q (By Mr. DeGreeff) And yes, no, or you can't answer:</p> <p>5 Mesh can cause pain for women during intercourse?</p> <p>6 A Oh, I can't answer that either.</p> <p>7 Q Mesh causes scar plate formation within the vagina;</p> <p>8 correct?</p> <p>9 MR. KOOPMANN: Object to form.</p> <p>10 THE WITNESS: Scar plate formation can</p> <p>11 occur with implanted mesh.</p> <p>12 Q (By Mr. DeGreeff) And mesh causes erosion of the tissue</p> <p>13 within the vagina; correct?</p> <p>14 MR. KOOPMANN: Object to form.</p> <p>15 THE WITNESS: No.</p> <p>16 Q (By Mr. DeGreeff) So is it your testimony, Doctor, that</p> <p>17 mesh does not cause erosion within a woman's vagina?</p> <p>18 MR. KOOPMANN: Object to form.</p> <p>19 THE WITNESS: Yes.</p> <p>20 Q (By Mr. DeGreeff) Have you seen erosion associated with</p> <p>21 transvaginal mesh?</p> <p>22 A Yes.</p> <p>23 Q And what is the cause of that erosion?</p> <p>24 A The cause of that erosion most likely is the misplacement</p> <p>25 of it or a wound healing abnormality, or it was</p>

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<p>1 improperly placed too deeply.</p> <p>2 Q So you don't believe that the mesh itself can cause</p> <p>3 erosion. You think it was either the result of a</p> <p>4 misplacement by -- by the implanter or something --</p> <p>5 something unique to that person's body?</p> <p>6 A Yes. Their immune system, that's correct. I don't think</p> <p>7 it's the mesh causing it.</p> <p>8 Q So we're clear, mesh does not cause erosion; correct?</p> <p>9 A Yes, that's correct.</p> <p>10 Q Doctor, are you aware that erosion does occur with</p> <p>11 vaginal mesh implants?</p> <p>12 A Erosion does occur?</p> <p>13 Q Yes.</p> <p>14 A It has occurred, yes.</p> <p>15 Q And mesh erosion can cause chronic pain; correct?</p> <p>16 MR. KOOPMANN: Object to form.</p> <p>17 THE WITNESS: It can -- well, I would</p> <p>18 say it would cause temporary pain because you can</p> <p>19 surgically remove it at the point of where the pain is.</p> <p>20 Q (By Mr. DeGreeff) You can remove the mesh, Doctor. You</p> <p>21 can't -- there are certain tissues within the vagina and</p> <p>22 certain areas that, once eroded, are not going to come</p> <p>23 back; correct?</p> <p>24 A Not necessarily. That's -- you get wound healing and</p> <p>25 scar formation and it does heal.</p>	<p>1 Q (By Mr. DeGreeff) So, Doctor, I just want to make sure</p> <p>2 I'm clear here. You're saying that, in the absence of</p> <p>3 medical negligence or a person having a -- something</p> <p>4 unique about their body, mesh does not cause erosions?</p> <p>5 A Yes, that's correct.</p> <p>6 Q Doctor, do you agree that frayed edges of the mesh can</p> <p>7 injure a woman's vagina?</p> <p>8 MR. KOOPMANN: Object to form.</p> <p>9 THE WITNESS: How do you mean, frayed</p> <p>10 edges? Frayed exposed edges of mesh, or are you talking</p> <p>11 about --</p> <p>12 Q (By Mr. DeGreeff) Yes.</p> <p>13 A Well, it won't injure the vagina. It can be irritating.</p> <p>14 Q Doctor, have you ever seen particle loss -- or particle</p> <p>15 within a woman's body as a result of mechanically cut</p> <p>16 mesh?</p> <p>17 A No.</p> <p>18 Q Do you agree that chronic pain is a risk associated with</p> <p>19 the TVT devices?</p> <p>20 MR. KOOPMANN: Object to form.</p> <p>21 THE WITNESS: That what is associated?</p> <p>22 Q (By Mr. DeGreeff) Chronic pain is a risk associated with</p> <p>23 the TVT devices?</p> <p>24 A No.</p> <p>25 Q Do you agree that pain with intercourse, that may not</p>
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<p>1 Q So it's your belief that, once you remove the mesh, the</p> <p>2 pain from mesh erosion subsides?</p> <p>3 A If -- and I don't know for a fact. If the erosion is</p> <p>4 causing the pain, a lot of times it's not the actual</p> <p>5 erosion that's causing the pain, or exposure that's</p> <p>6 causing the pain.</p> <p>7 But if you -- if you're talking about where you've</p> <p>8 placed mesh within the lumen of the bladder or into the</p> <p>9 urethra, which is a surgical misadventure, that will</p> <p>10 cause -- that can cause pain.</p> <p>11 Q Doctor, I'm talking about where it's prop- -- where mesh</p> <p>12 is properly placed.</p> <p>13 A Uh-huh.</p> <p>14 Q Are you saying that, once the mesh is removed, the pain</p> <p>15 caused by erosion will disappear in 100 percent of cases?</p> <p>16 A Well, you said it was properly placed, so if it's a wound</p> <p>17 healing issue that the patient did not heal over, the</p> <p>18 suture line opened for whatever reason, then that's</p> <p>19 someone who has bad tissue, and they may have chronic</p> <p>20 pain as a result of what their -- their tissue's -- the</p> <p>21 poor quality of their tissues.</p> <p>22 MR. KOOPMANN: How much time on the</p> <p>23 record?</p> <p>24 THE COURT REPORTER: Three and a half</p> <p>25 minutes.</p>	<p>1 resolve in some patients, is a risk associated with TVT</p> <p>2 devices?</p> <p>3 A It's associated with all pelvic surgery, whether a device</p> <p>4 is used or not.</p> <p>5 Q Do you agree that it's associated with TVT devices?</p> <p>6 A Directly, I can't prove that it's directly associated.</p> <p>7 Q You agree that chronic pain in the groin, thigh, leg,</p> <p>8 pelvis and/or -- pelvic and/or abdominal area is a risk</p> <p>9 associated with TVT devices?</p> <p>10 A Slings that go through muscle can cause some -- chronic</p> <p>11 pain. Rarely, but can cause chronic pain, and through --</p> <p>12 you're talking about transobuturator. There's some thigh</p> <p>13 pain associated regardless of what product is used. It's</p> <p>14 a very small number.</p> <p>15 Q Do you agree with the statement that chronic --</p> <p>16 A What I can't -- what I can't agree on is if it caused</p> <p>17 chronic pain, why wouldn't every case you do result in</p> <p>18 chronic pain? The few cases that patients have chronic</p> <p>19 pain after a pelvic surgery, I can't identify a specific</p> <p>20 cause of it.</p> <p>21 Q Doctor, do you agree one or more revision surgeries is a</p> <p>22 risk associated with TVT devices?</p> <p>23 A It's a risk, yes. A low risk, but it is a risk.</p> <p>24 Q Agree that TVT removal may be needed, and that removal</p> <p>25 may require significant dissection?</p>

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<p>1 A Depending on the cause, it's a possibility.</p> <p>2 (Discussion off the record.)</p> <p>3 EXAMINATION</p> <p>4 BY MR. KOOPMANN:</p> <p>5 Q Dr. Grier, you reviewed case-specific medical records in</p> <p>6 connection with forming your opinions on the cases in</p> <p>7 which you were asked to form case-specific opinions;</p> <p>8 correct?</p> <p>9 A Yes, yes.</p> <p>10 Q And you reviewed those records before you drafted those</p> <p>11 reports; correct?</p> <p>12 A Yes.</p> <p>13 Q The reliance list that Counsel was asking some questions</p> <p>14 about, did you come up with the title of that document?</p> <p>15 A No.</p> <p>16 Q Okay. Do you use the term "reliance list" in your</p> <p>17 practice?</p> <p>18 A Not at all.</p> <p>19 Q Is it your understanding that that's a list of materials</p> <p>20 that one of the law firms involved in this litigation has</p> <p>21 sent you over the years?</p> <p>22 A Yes.</p> <p>23 Q And in your reports regarding the TVT and TVT-O</p> <p>24 midurethral slings that we've marked as Exhibit 14, and</p> <p>25 you report regarding the TVT-Secur slings, did you cite a</p>	<p>1 the adequacy of the warnings in --</p> <p>2 MR. DEGREEFF: Objection. Form.</p> <p>3 Q (By Mr. Koopmann) -- in the IFUs for the TVT, TVT-O, and</p> <p>4 TVT-Secur?</p> <p>5 A That's correct.</p> <p>6 MR. DEGREEFF: Object to the form.</p> <p>7 Q (By Mr. Koopmann) And did your analysis and your reading</p> <p>8 of the literature that you cited in your reports for the</p> <p>9 TVT, TVT-O, and the TVT-Secur, and the efficacy and</p> <p>10 complications discussed in that literature, also go into</p> <p>11 your analysis of the adequacy of the warnings in the IFUs</p> <p>12 for the devices we're here to talk about today?</p> <p>13 MR. DEGREEFF: I'm going to object to</p> <p>14 form. Do you just want to give me a running objection on</p> <p>15 leading?</p> <p>16 MR. KOOPMANN: Sure.</p> <p>17 MR. DEGREEFF: Okay. Running</p> <p>18 objection on the fact that all of these questions are</p> <p>19 leading.</p> <p>20 THE WITNESS: Yes. I considered</p> <p>21 all -- all that information in -- in determining what I</p> <p>22 think is appropriate for the IFU.</p> <p>23 Q (By Mr. Koopmann) And the opinions that you set forth in</p> <p>24 the reports we've marked as Exhibit 14 and 15 regarding</p> <p>25 the TVT, TVT-O, and TVT-Secur slings, you hold those</p>
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<p>1 number of articles and position statements and</p> <p>2 peer-reviewed literature and things like that?</p> <p>3 A Yes, I did.</p> <p>4 Q Okay. And are those the materials that you're primarily</p> <p>5 relying on in support of your opinions regarding --</p> <p>6 A Yes.</p> <p>7 Q -- these devices?</p> <p>8 A Yes.</p> <p>9 Q The FDA guidance document that some questions were asked</p> <p>10 about very early in the deposition, that's something that</p> <p>11 you considered in forming your opinions, but it isn't all</p> <p>12 you considered in judging the adequacy of the</p> <p>13 instructions for use for the TVT, TVT-O, and TVT-Secur;</p> <p>14 correct?</p> <p>15 A That's correct.</p> <p>16 Q You also considered your use of those products throughout</p> <p>17 the past?</p> <p>18 A Yes.</p> <p>19 Q And you considered the sort of results that you achieved</p> <p>20 in treating patients with those products; correct?</p> <p>21 A Yes.</p> <p>22 Q Did you also consider the complications that you saw</p> <p>23 develop in your practice from your use of those products?</p> <p>24 A Yes.</p> <p>25 Q And all of that went into forming your opinions regarding</p>	<p>1 opinions to a reasonable degree of medical certainty?</p> <p>2 A Yes.</p> <p>3 Q You don't hold yourself out to the community as a design</p> <p>4 expert; is that fair?</p> <p>5 A That is fair.</p> <p>6 Q But are you an expert in urologic surgery?</p> <p>7 A Yes.</p> <p>8 Q And are you an expert in the materials used in urologic</p> <p>9 surgery?</p> <p>10 A Yes, I am.</p> <p>11 Q And you don't hold yourself out to the community as a</p> <p>12 warnings expert; correct?</p> <p>13 A No, I don't.</p> <p>14 Q But you've used a lot of medical devices throughout your</p> <p>15 career?</p> <p>16 A Yes.</p> <p>17 Q Dozens, certainly?</p> <p>18 A Yes.</p> <p>19 Q Hundreds?</p> <p>20 A Yes.</p> <p>21 Q And before you use a medical device, you read the</p> <p>22 instructions for use accompanying the device?</p> <p>23 A I do.</p> <p>24 Q And after treating patients with devices, you get a sense</p> <p>25 of what sort of complications you see?</p>

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<p>1 A Yes.</p> <p>2 Q Okay. And you factored in all of that experience with</p> <p>3 the TVT, TVT-O, and TVT-Secur slings in forming your</p> <p>4 opinions about the warnings accompanying those devices?</p> <p>5 A I have.</p> <p>6 Q You've been provided -- you were asked some questions</p> <p>7 earlier about being provided articles, including some of</p> <p>8 the articles we've got in front of us here today. But</p> <p>9 did Ethicon provide -- or Ethicon's counsel provide all</p> <p>10 of these articles the first time that you saw them, or</p> <p>11 did you read them in the course of your reading as a</p> <p>12 surgeon?</p> <p>13 A Oh, many of them I read in the course of my reading.</p> <p>14 Q You were asked some questions about Professor Ulmsten and</p> <p>15 payments that he's received. Has Professor Ulmsten's</p> <p>16 data regarding the TVT sling been reproduced by many</p> <p>17 other studies?</p> <p>18 A Yes, it has, all around the world. It's the most studied</p> <p>19 of all the pubovaginal slings, the urethral synthetic</p> <p>20 slings.</p> <p>21 Q Do you practice evidence-based medicine?</p> <p>22 A I do.</p> <p>23 Q And what does that mean?</p> <p>24 A That means what I choose to provide for my patients has</p> <p>25 scientific scrutiny and is as safe and efficacious as</p>	<p>1 A Yes.</p> <p>2 Q Are they also, your opinions, based on professional</p> <p>3 society position statements?</p> <p>4 A Yes.</p> <p>5 Q Are they also based to some extent on ongoing discourse</p> <p>6 between yourself and your colleagues regarding these</p> <p>7 devices?</p> <p>8 A That is true.</p> <p>9 Q And your opinions are based in part on your review of</p> <p>10 complications discussed in the literature and those that</p> <p>11 you've seen in your practice?</p> <p>12 A Yes.</p> <p>13 Q Are the complications that you've seen in your practice</p> <p>14 consistent with the warnings that you see listed in the</p> <p>15 adverse reactions section of the IFUs for the TVT and</p> <p>16 TVT-O and TVT-Secur prior to 2015?</p> <p>17 A Yes, they're consistent.</p> <p>18 Q Is chronic pain a risk of any pelvic floor surgery?</p> <p>19 A Yes, it is.</p> <p>20 Q It is a risk of the Burch procedure?</p> <p>21 A Yes, it is.</p> <p>22 Q It is a risk of pubovaginal sling procedures?</p> <p>23 A Yes, it is.</p> <p>24 Q Is dyspareunia a risk of any pelvic floor surgery?</p> <p>25 A Yes.</p>
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<p>1 what is the standard of care.</p> <p>2 Q And are there different levels of evidence?</p> <p>3 A There is different levels of evidence. From the bottom,</p> <p>4 which is anecdotal reporting, to the top, which is, say,</p> <p>5 Cochrane review, meta-analysis, systematic reviews.</p> <p>6 Q Where do internal company emails fall on the hierarchy of</p> <p>7 levels of evidence?</p> <p>8 A They don't fall at all, in any of it.</p> <p>9 Q Where do failure modes and effects analyses fall in the</p> <p>10 hierarchy of levels of evidence?</p> <p>11 A They don't fall at all in the levels of evidence.</p> <p>12 Q The opinions that you've expressed in your reports</p> <p>13 regarding the safety and efficacy of the TVT, TVT-O, and</p> <p>14 TVT slings, are those opinions based in part on your</p> <p>15 education, including your medical school and residency?</p> <p>16 A Yes.</p> <p>17 Q Is it also based on continuing ed courses?</p> <p>18 A Yes.</p> <p>19 Q Are those opinions about the safety and efficacy of the</p> <p>20 devices based on your clinical training and experience?</p> <p>21 A Yes.</p> <p>22 Q Are those opinions about the safety and efficacy of the</p> <p>23 devices based on your review of the peer-reviewed</p> <p>24 literature, book chapters, podium, and poster</p> <p>25 presentations and abstracts?</p>	<p>1 Q And are any complications that occur after any surgery --</p> <p>2 do they have the potential to be temporary or chronic?</p> <p>3 A Yes.</p> <p>4 Q And do any complications that occur following any pelvic</p> <p>5 floor surgery have the potential to be mild, moderate, or</p> <p>6 severe?</p> <p>7 A Yes.</p> <p>8 Q Do you have an opinion as to whether chronic pain and</p> <p>9 dyspareunia are common complications with any pelvic</p> <p>10 floor procedures, that all pelvic floor surgeons are</p> <p>11 expected to know?</p> <p>12 A Yes.</p> <p>13 Q And what is that opinion?</p> <p>14 A That opinion is very common, and every pelvic floor</p> <p>15 surgeon knows that it is a possible complication.</p> <p>16 Q When you were teaching professional education courses for</p> <p>17 Ethicon, did any of your colleagues ever express any</p> <p>18 concern about the complications listed in the IFU?</p> <p>19 A Well, yes, we discussed it. We would discuss it about --</p> <p>20 just about every meeting.</p> <p>21 Q Did they express any concerns about the complications</p> <p>22 they saw listed?</p> <p>23 A No. They're known and expected.</p> <p>24 Q How many TVT slings would you say you've implanted, if</p> <p>25 you could estimate?</p>

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<p>1 A Probably 1,500.</p> <p>2 Q How many TVT retropubics? Let me be more specific.</p> <p>3 A At least 500.</p> <p>4 Q And how many TVT-O slings have you implanted, if you</p> <p>5 could estimate?</p> <p>6 A Another 500.</p> <p>7 Q And how many TVT-Secur slings would you say you've</p> <p>8 implanted?</p> <p>9 A Oh, probably between 50 and 75.</p> <p>10 Q How do the complications that you've seen in your</p> <p>11 practice from the TVT, TVT-O, or TVT-Secur slings compare</p> <p>12 with the complications reported in the literature?</p> <p>13 A They're very similar.</p> <p>14 Q And how do the complications that you've seen -- strike</p> <p>15 that.</p> <p>16 Is it basic medical and surgical knowledge that</p> <p>17 postsurgical pain can be chronic or temporary?</p> <p>18 A Yes.</p> <p>19 Q Is it basic surgical knowledge that, when an adverse</p> <p>20 reaction occurs, further surgery may be required to</p> <p>21 correct it?</p> <p>22 A Yes.</p> <p>23 Q And did you know, prior to ever putting in a TVT, TVT-O,</p> <p>24 or TVT-Secur sling in a patient, that tissue in-growth</p> <p>25 would occur in the pores of the sling?</p>	<p>1 Q Okay. And that's true of any doctor, presumably?</p> <p>2 A It is true of all of us, yes.</p> <p>3 Q When patients go to other doctors after they have a</p> <p>4 complication following one of your surgeries, do you</p> <p>5 often learn about the fact that they went to another</p> <p>6 doctor?</p> <p>7 A Yes.</p> <p>8 Q And how do you do that?</p> <p>9 A They usually out of courtesy will call me, or if the</p> <p>10 reverse is true, I will call them.</p> <p>11 Q Can you think of a single randomized control trial that</p> <p>12 says the TVT mesh degraded or was cytotoxic?</p> <p>13 A No.</p> <p>14 Q And does that apply to the TVT-O sling mesh and the</p> <p>15 TVT-Secur mesh?</p> <p>16 A I know of no randomized control trials that show any</p> <p>17 degradation in any of the mesh products.</p> <p>18 Q They all have the same mesh; right?</p> <p>19 A For this line of -- for Ethicon, yes, they're all the</p> <p>20 same weave, same monofilament.</p> <p>21 Q For those company documents that you were provided and</p> <p>22 read, did any of them change your opinions that you</p> <p>23 formed based upon the peer-reviewed literature that</p> <p>24 you've reviewed and your experience using the slings?</p> <p>25 MR. DEGREEFF: I'm going to object to</p>
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<p>1 A Yes.</p> <p>2 Q And based on that understanding, did you also have an</p> <p>3 understanding that if, for some reason, part of that</p> <p>4 sling needed to be removed, that dissection would be</p> <p>5 required?</p> <p>6 A Yes.</p> <p>7 Q Did you have many patients who experienced no</p> <p>8 complications in connection with a TVT surgery?</p> <p>9 A Yes.</p> <p>10 Q And is the same true for TVT-O surgeries?</p> <p>11 A Yes.</p> <p>12 Q And is the same true for TVT-Secur surgeries?</p> <p>13 A Yes.</p> <p>14 Q When you did have a patient that received one of those</p> <p>15 slings who had a complication, did you treat those</p> <p>16 complications?</p> <p>17 A Yes.</p> <p>18 MR. DEGREEFF: I hope so.</p> <p>19 Q (By Mr. Koopmann) And you were asked some questions</p> <p>20 earlier about follow-up of your patients in your</p> <p>21 practice; is that right?</p> <p>22 A Yes.</p> <p>23 Q From time to time, patients don't return to you; that's</p> <p>24 true?</p> <p>25 A That is true.</p>	<p>1 the form. He said he didn't read any review.</p> <p>2 THE WITNESS: No, I didn't -- none of</p> <p>3 them changed my opinions.</p> <p>4 Q (By Mr. Koopmann) And while Ethicon's counsel may have</p> <p>5 sent you some articles in the course of your work in this</p> <p>6 litigation, did you also do your own searches for</p> <p>7 articles and literature?</p> <p>8 A Yes.</p> <p>9 Q You don't think chronic pain occurs with any of the TVT</p> <p>10 family of products due to any defect in the mesh;</p> <p>11 correct?</p> <p>12 A That's correct.</p> <p>13 Q You said that, with respect to -- I think it was</p> <p>14 stiffness, you said there was a point at which you would</p> <p>15 see diminishing returns if you had a very elastic sling.</p> <p>16 What did you mean by that?</p> <p>17 A Well, if --</p> <p>18 MR. DEGREEFF: I'm going to object to</p> <p>19 form. I think that misstates.</p> <p>20 THE WITNESS: Do I answer?</p> <p>21 Q (By Mr. Koopmann) Yes.</p> <p>22 A So if a mesh is too soft and has very, very little</p> <p>23 stiffness or integrity, it no longer supports the tissues</p> <p>24 that it's -- that it's designed to support.</p> <p>25 Q Okay. Is it more lucrative for you to do surgery or to</p>

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<p>1 give lectures for device companies?</p> <p>2 A To do surgery and be in the office.</p> <p>3 Q So why is it that you've devoted a significant amount of</p> <p>4 time to giving lectures for device manufacturers or</p> <p>5 pharmaceutical manufacturers?</p> <p>6 A Because I enjoy teaching, and I like the collaboration</p> <p>7 with other physicians around the country, and I find it</p> <p>8 to be professionally enhancing.</p> <p>9 Q In what way?</p> <p>10 A Well, because I've developed a network of friends around</p> <p>11 the country, of colleagues that I can call if I have a</p> <p>12 problem with a particular patient. Some of the brighter</p> <p>13 minds that are in our profession. And it also -- it</p> <p>14 requires me to stay vigilant in terms of training and</p> <p>15 study.</p> <p>16 Q Counsel asked a question about RCTs that have the primary</p> <p>17 end point of safety regarding the TVT.</p> <p>18 My question for you is, do all or almost all of the</p> <p>19 RCTs that you have reviewed on the TVT and TVT-O and</p> <p>20 TVT-Secur products discuss complications?</p> <p>21 A Yes. It may not be the primary outcome, but every one of</p> <p>22 them comments on percentages of complications, adverse</p> <p>23 outcomes, and issues about pain.</p> <p>24 Q You were asked some questions about chronic pain</p> <p>25 associated with the TVT sling, and one of the articles</p>	<p>1 A Yes.</p> <p>2 Q And so 13 patients --</p> <p>3 A Over 3974.</p> <p>4 Q -- divided by 3974 is a rate of chronic or persistent</p> <p>5 pain of .3 percent; correct?</p> <p>6 A That's correct.</p> <p>7 Q And for 30 patients with the transobturator midurethral</p> <p>8 slings, divided by 2,432 patients with transobturator</p> <p>9 midurethral slings, that would yield a persistent or</p> <p>10 chronic pain rate of 1.2 percent; correct?</p> <p>11 A Yes.</p> <p>12 Q One of the articles you have in your binder is an article</p> <p>13 by Jonsson-Funk, et al.?</p> <p>14 A Yes.</p> <p>15 Q That study looked at 188,454 women who underwent a</p> <p>16 midurethral sling procedure?</p> <p>17 A Yes.</p> <p>18 Q And that study showed the nine-year cumulative risk of</p> <p>19 sling revision or removal was 3.7 percent?</p> <p>20 A Yes. Over nine years.</p> <p>21 Q And they found that the nine-year risk of sling revision</p> <p>22 removal for mesh erosion was 2.5 percent; right?</p> <p>23 A Yes.</p> <p>24 Q You've got a study here by Cecile Unger. Is that a study</p> <p>25 that you reviewed and relied on in forming your opinions</p>
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<p>1 that you had out a few minutes ago was this Tommaselli</p> <p>2 systematic review and meta-analysis.</p> <p>3 A Yes.</p> <p>4 Q That's an article that you reviewed and relied on in</p> <p>5 forming your opinions?</p> <p>6 A Yes.</p> <p>7 Q And in that study, there were 3,974 retropubic TVT -- I'm</p> <p>8 sorry -- retropubic sling patients?</p> <p>9 A Yes. And -- well, it was retropubic and transobturator,</p> <p>10 total.</p> <p>11 Q Right. But if you look at Table 3 of that study --</p> <p>12 Table 3.</p> <p>13 A Got it.</p> <p>14 Q There were 3,974 total retropubic patients in that study?</p> <p>15 A Yes.</p> <p>16 Q And then there were a total of 2,432 transobturator</p> <p>17 patients?</p> <p>18 A That's correct.</p> <p>19 Q And then on the next page, from the right-hand column, it</p> <p>20 talks about tape-related long-term complications?</p> <p>21 A Yes. It was --</p> <p>22 Q And they say there, "Persistent or chronic pain was</p> <p>23 reported by 13 patients for the retropubic midurethral</p> <p>24 sling group and 30 patients for transobturator</p> <p>25 midurethral sling patients"; correct?</p>	<p>1 in this case?</p> <p>2 A Yes.</p> <p>3 Q And did you also review and rely on the Jonsson-Funk</p> <p>4 study in forming your opinions in these cases?</p> <p>5 A The previous study, yes.</p> <p>6 Q In that Unger study, they looked at 3,307 women who</p> <p>7 underwent sling placement; is that right?</p> <p>8 A Yes.</p> <p>9 Q And they found that 89 women underwent sling revision?</p> <p>10 A Yes. 2.7 percent.</p> <p>11 Q And if you do the math there, the rate of sling revision</p> <p>12 for erosion was 0.57 percent?</p> <p>13 A That's right.</p> <p>14 Q And the rate of --</p> <p>15 A Pain is 0.21 percent.</p> <p>16 Q The rate of vaginal pain or dyspareunia causing sling --</p> <p>17 or necessitating sling revision?</p> <p>18 A Yes.</p> <p>19 MR. DEGREEFF: Can I see those,</p> <p>20 Doctor, the ones you just spoke about?</p> <p>21 THE WITNESS: Oh, it was this one</p> <p>22 here.</p> <p>23 MR. DEGREEFF: Is this the only one</p> <p>24 you were just talking about, or was there another one?</p> <p>25 THE WITNESS: No, that was Funk I</p>

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<p>1 think you had there.</p> <p>2 MR. DEGREEFF: Tommaselli, what was</p> <p>3 the other one?</p> <p>4 THE WITNESS: Jonsson-Funk.</p> <p>5 MR. DEGREEFF: Thank you.</p> <p>6 THE WITNESS: This is Welk.</p> <p>7 Q (By Mr. Koopmann) You also reviewed a study by Welk and</p> <p>8 relied on that in forming your opinions in these cases?</p> <p>9 A Yes.</p> <p>10 Q And this study was a population-based retrospective</p> <p>11 cohort study that included all adult women undergoing an</p> <p>12 incident procedure for SUI with synthetic mesh in</p> <p>13 Ontario, Canada, from April 1st, 2002, through</p> <p>14 December 31, 2012; is that right?</p> <p>15 A Yes.</p> <p>16 Q And the number of those women was 59,887?</p> <p>17 A Yes.</p> <p>18 Q And the author's conclusion was that ten years after SUI</p> <p>19 mesh surgery, 1 of every 30 women may require a second</p> <p>20 procedure for mesh removal or revision?</p> <p>21 A That's their conclusion, yes.</p> <p>22 Q So turn to Page E-3, the primary analysis section. It</p> <p>23 said, overall 1,307 women, or 2.2 percent underwent mesh</p> <p>24 removal or revision a median of 0.49 years after</p> <p>25 receiving a mesh implant for SUI. The sling complication</p>	<p>1 Q And that Schimpf study was a systematic review and</p> <p>2 meta-analysis of randomized control trials from 1990</p> <p>3 through April 2013, with a minimum of 12 months of</p> <p>4 follow-up?</p> <p>5 A Yes.</p> <p>6 Q And the RCTs were comparing the sling procedure for SUI</p> <p>7 to another sling or Burch urethropexy?</p> <p>8 A Correct.</p> <p>9 Q And they looked at full-length midurethral slings like</p> <p>10 the TVT and TVT-O?</p> <p>11 A Yes.</p> <p>12 Q And they looked at single-incision slings like the</p> <p>13 TVT-Secur?</p> <p>14 A Correct.</p> <p>15 Q And if you look at Table 1 on Page 71.E5, they list in</p> <p>16 Table E1 the randomized control trials looking at</p> <p>17 mini-slings versus any other sling; right?</p> <p>18 A Yes.</p> <p>19 Q And all of those mini-sling studies that they looked at</p> <p>20 studied the TVT-Secur except one; is that right?</p> <p>21 A Yes.</p> <p>22 Q And then in Table 3 of that study, they look at the rates</p> <p>23 of adverse events by sling type analyzed from randomized</p> <p>24 control trials, and included adverse event studies; is</p> <p>25 that right?</p>
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<p>1 was treated by the same surgeon responsible for the</p> <p>2 original procedure in 812 of the 1,307 cases, which was</p> <p>3 62.1 percent; is that right?</p> <p>4 A Correct. Yes.</p> <p>5 Q You also had a study by Nguyen; is that right?</p> <p>6 A John Nguyen, yes.</p> <p>7 Q Nguyen. And that's a study that you relied on in forming</p> <p>8 your opinions in these cases?</p> <p>9 A Yes.</p> <p>10 Q And in this Nguyen study, they looked at all female</p> <p>11 members of Kaiser Permanente, Southern and Northern</p> <p>12 California and Hawaii, who underwent sling procedures or</p> <p>13 pelvic organ prolapse surgeries using implanted grafts of</p> <p>14 mesh between September 1, 2008, and May 31, 2010; is that</p> <p>15 right?</p> <p>16 A Correct.</p> <p>17 Q And they looked at 3,747 sling patients; is that right?</p> <p>18 A Yes.</p> <p>19 Q And 30 of the 3,747 experienced a vaginal mesh erosion?</p> <p>20 A Yes.</p> <p>21 Q And that was a 0.8 percent rate for erosions?</p> <p>22 A That's correct.</p> <p>23 Q One of the articles you had earlier was an article by</p> <p>24 Schimpf, et al.; is that right? It's right here.</p> <p>25 A Okay.</p>	<p>1 A Correct.</p> <p>2 Q And they compare, when possible, transobturator slings</p> <p>3 like the TVT-O, mini-slings like the TVT-Secur,</p> <p>4 retropubic slings like the TVT retropubic --</p> <p>5 A Yes.</p> <p>6 Q -- and the Burch procedure and pubovaginal sling</p> <p>7 procedures; right?</p> <p>8 A Yes.</p> <p>9 Q And is this table something that you reviewed and relied</p> <p>10 on in forming your opinions in this litigation?</p> <p>11 A I have.</p> <p>12 Q And the author's conclusion with respect to the</p> <p>13 midurethral slings versus the Burch procedure, was that</p> <p>14 they suggested either intervention based on the cure</p> <p>15 rates -- the objective cure rates and said the decision</p> <p>16 should balance on -- balance potential adverse events and</p> <p>17 concomitant surgeries; right?</p> <p>18 A Yes.</p> <p>19 MR. DEGREEFF: I don't have anything</p> <p>20 from Exhibit 4 right here, do I?</p> <p>21 MR. KOOPMANN: I don't think so.</p> <p>22 Q (By Mr. Koopmann) Another study you have in your binder</p> <p>23 for the TVT and TVT-O general report is a study by</p> <p>24 Mohamed Abdel-Fattah; is that right?</p> <p>25 A Yes.</p>

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<p>1 Q And that study looked at -- their objective was to</p> <p>2 determine the lifetime risk of undergoing pelvic floor</p> <p>3 surgery in a cohort of U.K. parous women, and the</p> <p>4 reoperation rates for pelvic floor surgery?</p> <p>5 A Yes.</p> <p>6 Q And they ended up looking at 34,631 women?</p> <p>7 A Yes.</p> <p>8 Q If you'll turn to Page 5, they talk about some risk</p> <p>9 factors for reoperation?</p> <p>10 A Yes.</p> <p>11 Q And they found that the -- that 8.8 percent of the women</p> <p>12 studied had at least one repeat urinary incontinence</p> <p>13 surgery?</p> <p>14 A Yes.</p> <p>15 Q And then they also indicate on the right-hand column that</p> <p>16 the reoperation rate for urinary incontinence was</p> <p>17 3.2 percent in the --</p> <p>18 A In the midurethral group.</p> <p>19 Q In the midurethral sling group; right?</p> <p>20 A Yes.</p> <p>21 Q And it was 10.7 percent in the abdominal retropubic</p> <p>22 surgery group?</p> <p>23 A Yes.</p> <p>24 Q Is that a Burch procedure?</p> <p>25 A That's exactly what that is.</p>	<p>1 Q Did you also review a study by Mohamed Abdel-Fattah,</p> <p>2 which was a meta-analysis regarding single-incision</p> <p>3 mini-slings?</p> <p>4 A Yes. But let's find it. Oh, here it is. No. 1. Yes.</p> <p>5 Q In that study, they looked at a total of 758 women in</p> <p>6 nine randomized control trials with a mean follow-up of</p> <p>7 nine and a half months?</p> <p>8 A Yes.</p> <p>9 MR. DEGREEFF: Hey, Barry, I'm going</p> <p>10 to have to object. I mean, all you're doing is sitting</p> <p>11 here reading documents to him. I mean, if you want to</p> <p>12 ask him questions about the documents, that's fine, but I</p> <p>13 feel like you're just reading them to him. I think</p> <p>14 that's leading.</p> <p>15 Q (By Mr. Koopmann) Single-incision midurethral slings</p> <p>16 were associated with significantly lower patient reported</p> <p>17 and objective cure rates at 6 to 12 months compared with</p> <p>18 standard midurethral slings.</p> <p>19 Is that what it reports?</p> <p>20 A And that was my experience in a study that I contributed,</p> <p>21 that there was an early -- less pain initially postop,</p> <p>22 but at the one-year mark was the same as the longer</p> <p>23 slings.</p> <p>24 MR. DEGREEFF: Objection. Form.</p> <p>25 Q (By Mr. Koopmann) Then on Page 471, they note that the</p>
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<p>1 Q In your TVT-Secur general report binder, you have a</p> <p>2 systematic review and meta-analysis by Colin Walsh; is</p> <p>3 that right?</p> <p>4 A Yes. Yes. 2011?</p> <p>5 Q And that study looked at -- well, it was published in</p> <p>6 2011; correct?</p> <p>7 A Yes.</p> <p>8 Q And it looked at 1,178 women who received the TVT-Secur?</p> <p>9 A Yes.</p> <p>10 Q And that was in ten studies?</p> <p>11 A Ten studies.</p> <p>12 Q And they found both the objective and subjective cure</p> <p>13 rate at 12 months was 76 percent?</p> <p>14 A Yes.</p> <p>15 Q And they found a 2.4 percent incidence of mesh exposure</p> <p>16 in the first year?</p> <p>17 A Yes.</p> <p>18 Q And a 1 percent rate of dyspareunia?</p> <p>19 A Yes.</p> <p>20 Q And a return to theater for complications rate of</p> <p>21 0.8 percent?</p> <p>22 A Yes.</p> <p>23 Q Is this a study that you reviewed and relied upon in</p> <p>24 forming your opinions about the TVT-Secur sling?</p> <p>25 A Yes.</p>	<p>1 single-incision midurethral sling meta-analysis was</p> <p>2 possible for studies comparing TVT-Secur versus standard</p> <p>3 midurethral slings; right?</p> <p>4 A Yes.</p> <p>5 MR. DEGREEFF: Objection to form.</p> <p>6 Q (By Mr. Koopmann) And they noted that a trend towards</p> <p>7 lower rates of patient reported success and objective</p> <p>8 cure with the TVT-Secur was seen; however, it did not</p> <p>9 reach statistical significance. Is that right?</p> <p>10 A Yes.</p> <p>11 MR. DEGREEFF: Objection. Form.</p> <p>12 Q (By Mr. Koopmann) And what does that mean, that it did</p> <p>13 not reach statistic significance?</p> <p>14 MR. DEGREEFF: You've got to let me</p> <p>15 get my objections on the record before you answer,</p> <p>16 Doctor.</p> <p>17 THE WITNESS: Well, what it means is</p> <p>18 that --</p> <p>19 MR. DEGREEFF: Objection. Form.</p> <p>20 THE WITNESS: -- there wasn't a</p> <p>21 statistical difference that was enough to be means tested</p> <p>22 that it was significant. The P testing was not high</p> <p>23 enough to -- to say that there's a delta here where Secur</p> <p>24 was different than the standard midurethral sling.</p> <p>25 Q (By Mr. Koopmann) Okay. And then in the right-hand</p>

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<p>1 column under Quality of Life, it indicates that there was</p> <p>2 a trend towards better quality of life score in the</p> <p>3 standard midurethral sling group, but it was not</p> <p>4 statistically significant; is that right?</p> <p>5 A Yes.</p> <p>6 MR. DEGREEFF: Objection for form.</p> <p>7 And just to be clear, is my running objection on form</p> <p>8 still going for leading?</p> <p>9 MR. KOOPMANN: I thought it ended</p> <p>10 because you started objecting again to leading.</p> <p>11 MR. DEGREEFF: Well, I actually -- I</p> <p>12 think what happened is that I forgot that we had a -- we</p> <p>13 had an agreement that I could -- that it was -- I had a</p> <p>14 running objection. So if my running objection is still</p> <p>15 in place, then I'll stop saying objection to form on</p> <p>16 everything.</p> <p>17 MR. KOOPMANN: I'll put it back in</p> <p>18 place now.</p> <p>19 MR. DEGREEFF: Okay. Thanks.</p> <p>20 Q (By Mr. Koopmann) So does that basically mean that the</p> <p>21 quality of life scores between the standard midurethral</p> <p>22 slings and single-incision midurethral slings was no</p> <p>23 different?</p> <p>24 A They're -- they're close enough that they are the same.</p> <p>25 Q And you've reviewed TVT-Secur-related literature,</p>	<p>1 (Recess from 9:12 p.m. to</p> <p>2 9:18 p.m.)</p> <p>3 FURTHER EXAMINATION</p> <p>4 BY MR. DEGREEFF:</p> <p>5 Q Doctor, you mentioned earlier, I believe when Counsel was</p> <p>6 questioning you, that there was some discord among your</p> <p>7 colleagues about -- regarding transvaginal mesh.</p> <p>8 Do you remember giving that testimony?</p> <p>9 A I don't recall. Discord?</p> <p>10 Q That's the word you used. Because that's not even a word</p> <p>11 I would ever come up with.</p> <p>12 A There's differing opinions in terms of techniques and how</p> <p>13 to place it and some people will come up with the idea of</p> <p>14 putting in drains. It's different iterations of the same</p> <p>15 surgery that may not follow the IFU. So occasionally</p> <p>16 someone would come up with a concept like that.</p> <p>17 Q Doctor, you're aware that a number of your colleagues</p> <p>18 believe that transvaginal mesh is not safe?</p> <p>19 MR. KOOPMANN: Object to form.</p> <p>20 THE WITNESS: I think very few of my</p> <p>21 colleagues agree to that. If you look at the position</p> <p>22 papers by the different societies, they're -- they feel</p> <p>23 that it has efficacy and safety, and it should still be</p> <p>24 used.</p> <p>25 Q (By Mr. DeGreeff) I guess my question was a little</p>
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<p>1 including randomized control trials, that were both</p> <p>2 favorable regarding the sling, and unfavorable?</p> <p>3 A That's correct.</p> <p>4 Q Okay. And you factored all of that in, in forming your</p> <p>5 opinions about the device?</p> <p>6 A Yes.</p> <p>7 MR. JONES: Could we see that one,</p> <p>8 that Abdel-Fattah?</p> <p>9 MR. KOOPMANN: Here, I think I've got</p> <p>10 copies.</p> <p>11 MR. DEGREEFF: Do you have copies of</p> <p>12 all of those that you just did that we could have?</p> <p>13 MR. KOOPMANN: Several.</p> <p>14 MR. DEGREEFF: Okay.</p> <p>15 MR. KOOPMANN: Do you want one to take</p> <p>16 with you?</p> <p>17 MR. DEGREEFF: Yeah.</p> <p>18 MR. KOOPMANN: Do you want it now or</p> <p>19 can I do it after we're done?</p> <p>20 MR. DEGREEFF: We can do it after</p> <p>21 we're done. That's fine.</p> <p>22 MR. KOOPMANN: I think those are all</p> <p>23 the questions I have for you, Dr. Grier. I may have some</p> <p>24 more if Counsel has some more.</p> <p>25 ///</p>	<p>1 different than that. It's really kind of a yes-or-no</p> <p>2 question.</p> <p>3 Are you aware that some of your colleagues believe</p> <p>4 mesh is not safe?</p> <p>5 A When you say "colleagues," you mean everyone who could be</p> <p>6 a urologist, urogynecologist, or gynecologist in the</p> <p>7 country? Are those my colleagues?</p> <p>8 Q Do you consider those your colleagues?</p> <p>9 A In a very, very broad and loose term, yes.</p> <p>10 Q Are you aware --</p> <p>11 A In which case I would agree with you.</p> <p>12 Q Are you aware of some very good doctors who believe that</p> <p>13 mesh is not safe?</p> <p>14 A Not the term "good." There are doctors who have been</p> <p>15 anti-mesh from the beginning because they had interest in</p> <p>16 doing different types of procedures that did not involve</p> <p>17 mesh.</p> <p>18 Q So, Doctor, do you believe that all of the doctors who</p> <p>19 believe mesh is not safe are not good doctors?</p> <p>20 MR. KOOPMANN: Object to form.</p> <p>21 THE WITNESS: No, I don't believe</p> <p>22 that. I believe -- what I rely on for an opinion is the</p> <p>23 research studies that have been done.</p> <p>24 Q (By Mr. DeGreeff) Doctor, what studies did you review</p> <p>25 that were not favorable to your opinions?</p>

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<p>1 A I can't recall specific studies. They have diff- -- in</p> <p>2 the results they may have a higher complication rate or a</p> <p>3 higher exposure rate in one study versus another. And</p> <p>4 some of them, for those studies, you put it all together,</p> <p>5 a meta-analysis. You get averages.</p> <p>6 One of the things about these particular products</p> <p>7 is, there's a learning curve to it, and the studies that</p> <p>8 I usually don't really put a lot of credence on are the</p> <p>9 ones that are early on in their experience, that they</p> <p>10 haven't -- they haven't mastered their learning curve for</p> <p>11 them.</p> <p>12 Q I guess, Doctor, my question was, what studies -- as</p> <p>13 you're sitting here, what specific studies do you</p> <p>14 remember reviewing that were not favorable to your</p> <p>15 opinion?</p> <p>16 MR. KOOPMANN: Objection. Form.</p> <p>17 Asked and answered.</p> <p>18 THE WITNESS: I don't recall specific</p> <p>19 studies.</p> <p>20 Q (By Mr. DeGreeff) Doctor, do you know what warnings were</p> <p>21 added to the TVT label in 2015?</p> <p>22 A My memory is, it might be dyspareunia.</p> <p>23 Q And so you were asked earlier if the -- if the 2005 label</p> <p>24 was -- strike that.</p> <p>25 As you sit here, you believe what was added to the</p>	<p>1 reliance list?</p> <p>2 A If it's alphabetically -- oh, yes. Yes.</p> <p>3 Q And what date were those depositions taken?</p> <p>4 A May 30th and 31st of 2013.</p> <p>5 Q Have you -- is Dr. Weisberg's deposition from</p> <p>6 November 12th and 13th of 2015 on your reliance list?</p> <p>7 A No.</p> <p>8 Q Are you aware that Dr. Weisberg was chosen by Ethicon to</p> <p>9 testify as their corporate representative on the revised</p> <p>10 TVT and Gynemesh IFUs?</p> <p>11 A No, I was not aware.</p> <p>12 Q Do you know he's Ethicon's medical director? Correct?</p> <p>13 A Is he currently?</p> <p>14 Q I believe so.</p> <p>15 A I thought he was ten years ago.</p> <p>16 Q Okay. Have you -- I'm assuming, given that it's not on</p> <p>17 your reliance list, that you haven't reviewed that</p> <p>18 deposition?</p> <p>19 A No. Don't recall it.</p> <p>20 Q And do you see Dr. Laura Angeleni's June 2015 deposition</p> <p>21 on your reliance list?</p> <p>22 A Yes. Did -- what was the date?</p> <p>23 Q June of 2015.</p> <p>24 A No.</p> <p>25 Q Do you know that she's the -- she was the woman who</p>
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<p>1 2015 label -- and I'm not asking you to -- to review it</p> <p>2 at this point. As you sit here, having formed your</p> <p>3 opinions in this case, what you believe was added to the</p> <p>4 2015 label as warnings was dyspareunia?</p> <p>5 MR. KOOPMANN: Object to form.</p> <p>6 THE WITNESS: That's my memory.</p> <p>7 Q (By Mr. DeGreeff) Anything else?</p> <p>8 A Oh, I can't recall specifically.</p> <p>9 Q Doctor, why don't you get out your reliance list, please.</p> <p>10 I think Counsel spent a lot of time with you on it.</p> <p>11 A For which? TVT-O or Secur?</p> <p>12 Q Well, they're the same --</p> <p>13 A Oh, actually, we have it here.</p> <p>14 Q And, Doctor, why don't you open up to the depositions</p> <p>15 list.</p> <p>16 A That was the last page, wasn't it?</p> <p>17 Q Well, I think that was the expert reports.</p> <p>18 A Oh, you're right. Oh, my. Do you know --</p> <p>19 Q It's towards the end. I say that, I think it was. Here,</p> <p>20 let me tell you. I think I know. It's towards the back.</p> <p>21 Here we go. I think it's on -- it's towards the back.</p> <p>22 It's like ten pages in. It's this list right here, which</p> <p>23 is a list of names and -- there you go.</p> <p>24 A Okay.</p> <p>25 Q Doctor, is the deposition of Dr. Martin Weisberg on your</p>	<p>1 essentially created the branding for the TVT?</p> <p>2 A No.</p> <p>3 Q Do you know she was the head of marketing for TVT from</p> <p>4 the time of launch?</p> <p>5 MR. KOOPMANN: Object to form.</p> <p>6 THE WITNESS: I don't recall her name</p> <p>7 at all.</p> <p>8 Q (By Mr. DeGreeff) Will you be offering opinions in this</p> <p>9 case related to whether TVT mesh frays, ropes, curls,</p> <p>10 unravels, loses particles, or deforms?</p> <p>11 MR. KOOPMANN: Object to form.</p> <p>12 Foundation. Asked and answered.</p> <p>13 THE WITNESS: I guess I will -- I will</p> <p>14 comment on it, if that's what you're asking. I don't</p> <p>15 feel that that's something that happens if it's applied</p> <p>16 properly.</p> <p>17 Q (By Mr. DeGreeff) So you're essentially offering --</p> <p>18 you're essentially offering the opinion that that doesn't</p> <p>19 happen?</p> <p>20 A It can happen with a misapplication, if you're putting</p> <p>21 too much pressure on the sling when you're inserting it.</p> <p>22 Q As someone who's going to be offering opinions on whether</p> <p>23 TVT mesh does those things -- doesn't do those things</p> <p>24 when properly implanted, would you want to have access to</p> <p>25 a deposition of the TVT product director, discussing</p>

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<p>1 documents related to TVT mesh with those very issues?</p> <p>2 MR. KOOPMANN: Object to form.</p> <p>3 THE WITNESS: Well, that's perhaps</p> <p>4 anecdotal and individual information that I don't know</p> <p>5 where -- how I would put that in the perspective of sling</p> <p>6 surgery and midurethral slings.</p> <p>7 Q (By Mr. DeGreeff) Doctor, do you give any weight to the</p> <p>8 depositions taken in this case in rendering your</p> <p>9 opinions?</p> <p>10 A When you say "weight," I read them, and I agree with some</p> <p>11 things that I read and certainly not with others.</p> <p>12 Q Well, we talked earlier, you've only read 20 of 130;</p> <p>13 correct?</p> <p>14 A That's about accurate, yes. So I can't comment on what I</p> <p>15 haven't read.</p> <p>16 Q Okay. You haven't reviewed Laura Angeleni's June 2015</p> <p>17 deposition; fair?</p> <p>18 A No, no.</p> <p>19 Q What about Dr. Tom Divilio, his October 2014 deposition?</p> <p>20 A No, I haven't.</p> <p>21 Q You know that he was --</p> <p>22 MR. KOOPMANN: Counsel, just -- sorry</p> <p>23 to interrupt, but I think I just asked about whether he</p> <p>24 came up with that title for the reliance list. I mean --</p> <p>25 MR. DEGREEFF: No, you asked about</p>	<p>1 A A single-incision midurethral sling.</p> <p>2 Q And that would include the TVT products?</p> <p>3 A That would be the TVT-Secur.</p> <p>4 Q And do you agree that current evidence regarding their</p> <p>5 short- and medium-term efficacy compared with SMUS --</p> <p>6 which is?</p> <p>7 MR. KOOPMANN: Object to form.</p> <p>8 THE WITNESS: That's standard</p> <p>9 midurethral sling.</p> <p>10 Q (By Mr. DeGreeff) Okay. -- is controversial?</p> <p>11 A I wouldn't say controversial. How do you mean</p> <p>12 controversial?</p> <p>13 Q Just asking you a question.</p> <p>14 A I know of no controversy.</p> <p>15 Q And what is -- what is -- do you agree that midurethral</p> <p>16 slings represent a significant cost to health services</p> <p>17 worldwide?</p> <p>18 A The cost of stress incontinence management is a large</p> <p>19 cost worldwide, whether it's pre- or postoperative. The</p> <p>20 cost of incontinence pads is a significant expenditure</p> <p>21 every year, in the billions of dollars.</p> <p>22 Q Okay. I guess my question is yes, no, or you can't</p> <p>23 answer: Do you agree that midurethral slings represent a</p> <p>24 significant cost to health services worldwide?</p> <p>25 A Not in the total picture, no.</p>
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<p>1 articles included on the reliance list, whether he did a</p> <p>2 search for the stuff on the reliance list. You asked a</p> <p>3 number of questions about it.</p> <p>4 MR. KOOPMANN: I don't think those</p> <p>5 were in the context of the reliance list.</p> <p>6 MR. DEGREEFF: They were in the</p> <p>7 context of the reliance list.</p> <p>8 MR. KOOPMANN: They were in the</p> <p>9 context of his reports, I think, but --</p> <p>10 THE WITNESS: I don't see that -- that</p> <p>11 person listed on the deposition list.</p> <p>12 Q (By Mr. DeGreeff) Since I think Counsel did talk</p> <p>13 primarily about literature with you and your reliance</p> <p>14 list, let's skip to -- let's skip to that.</p> <p>15 Do you see anywhere on your list, on your literature</p> <p>16 list, your literature reliance list, the -- and I think</p> <p>17 those are alphabetical by last name of the author, so I</p> <p>18 think that will probably make it easier. Do you see on</p> <p>19 there an article by B. L. Hansen?</p> <p>20 A No, I don't.</p> <p>21 Q Doctor, I'm going to move on from this because I actually</p> <p>22 do think maybe this is outside of what I -- what maybe</p> <p>23 was opened. I think I'm just about done, if you give me</p> <p>24 two seconds. I've got about two more questions.</p> <p>25 Doctor, what is a -- what is an SIMS? Any idea?</p>	<p>1 Q Do you agree that SIMS, which we agreed was --</p> <p>2 A Single-incision --</p> <p>3 Q -- midurethral slings.</p> <p>4 Do you agree that single-incision midurethral slings</p> <p>5 have gained popularity in the surgical management of SUI</p> <p>6 in women, based mainly on small uncontrolled case series</p> <p>7 from enthusiastic surgeons and undoubtedly the influence</p> <p>8 of marketing?</p> <p>9 A No.</p> <p>10 Q Do you agree that -- do you agree that SMUSes -- standard</p> <p>11 midurethral slings; correct? Do you agree that standard</p> <p>12 midurethral slings depend on their post-insertion</p> <p>13 fixation process mainly on friction with nearby tissues</p> <p>14 in their relatively longer trajectory of insertion,</p> <p>15 including the rectus muscles sheath, or the thigh</p> <p>16 abductor muscles?</p> <p>17 A Yes.</p> <p>18 Q And you agree that that would be -- strike that.</p> <p>19 MR. DEGREEFF: Let's just go home.</p> <p>20 I'm ready. I'm done.</p> <p>21 MR. KOOPMANN: No further questions.</p> <p>22 (Signature reserved.)</p> <p>23 (Deposition concluded at</p> <p>24 9:37 p.m.)</p> <p>25</p>

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<p style="text-align: right;">Page 362</p> <p>1 STATE OF WASHINGTON) I, Cindy M. Koch, CCR, RPR, CRR 2) ss CLR, a certified court reporter 3 County of Pierce) in the State of Washington, do 4 hereby certify:</p> <p>5 That the foregoing deposition of DOUGLAS GRIER, M.D. 6 was taken before me and completed on March 22, 2016, and 7 thereafter was transcribed under my direction; that the 8 deposition is a full, true and complete transcript of the 9 testimony of said witness, including all questions, answers, 10 objections, motions and exceptions;</p> <p>11 That the witness, before examination, was by me 12 duly sworn to testify the truth, the whole truth, and 13 nothing but the truth, and that the witness reserved the 14 right of signature;</p> <p>15 That I am not a relative, employee, attorney or 16 counsel of any party to this action or relative or employee 17 of any such attorney or counsel and that I am not 18 financially interested in the said action or the outcome 19 thereof;</p> <p>20 That I am herewith securely sealing the said 21 deposition and promptly delivering the same to 22 Attorney David DeGreeff.</p> <p>23 IN WITNESS WHEREOF, I have hereunto set my 24 signature on the 25th day of March, 2016.</p> <p style="text-align: right;">_____ Cindy M. Koch, CCR, RPR, CRR, CLR Certified Court Reporter No. 2357</p>	<p style="text-align: right;">Page 364</p> <p>1 2 ACKNOWLEDGMENT OF DEPONENT 3 4 I, _____, do 5 hereby certify that I have read the 6 foregoing pages, and that the same is 7 a correct transcription of the answers 8 given by me to the questions therein 9 propounded, except for the corrections or 10 changes in form or substance, if any, 11 noted in the attached Errata Sheet.</p> <p>12 13 14 15 DOUGLAS GRIER, M.D. DATE 16 17 18 Subscribed and sworn 19 to before me this 20 ____ day of _____, 20____. 21 My commission expires: _____</p> <p>22 23 _____ 24 Notary Public</p>
<p style="text-align: right;">Page 363</p> <p>1 2 - - - - - 3 E R R A T A 4 - - - - -</p> <p>5 PAGE LINE CHANGE</p> <p>6 _____ 7 REASON: _____ 8 9 _____ 10 REASON: _____ 11 12 _____ 13 REASON: _____ 14 15 _____ 16 REASON: _____ 17 18 _____ 19 REASON: _____ 20 21 _____ 22 REASON: _____ 23 24 _____ 25 REASON: _____</p>	

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